



CRL OP(MD). No.5720 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15/04/2024

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.5720 of 2024

Rajapathi

... Petitioner/Sole Accused

Vs

The Inspector of Police,
Thiruvaidaimaruthur Police Station,
Thanjavur District
Cr. No. 195/2024.

... Respondent/Complainant

For Petitioner : Mr.T.R.Subramanian, Advocate.

For Respondent : Mr.T.Senthil Kumar, Additional Public Prosecutor

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

For Bail in Crime No. 195 of 2024 on the file of the respondent police.

ORDER : The Court made the following order :-

The respondent police registered a case as against this petitioner in Crime No.195 of 2024 for the offence under Section 379 IPC and Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957 and remanded him into judicial custody on 20.03.2024. Therefore, the petitioner has filed this petition seeking bail.

2. The case of the prosecution is that the petitioner has illegally transported 3

<https://www.mhc.tn.gov.in/judis>



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units of red sand by using tipper lorry.

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3. The learned counsel for the petitioner submits that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. However, he is languishing in Jail from 20.03.2024.

4. The learned Additional Public Prosecutor appearing for the respondent opposes for grant of bail on the ground that the investigation is yet to be completed. However, he fairly submits that the petitioner is not having any previous case.

5. Considering the facts and circumstances of the case, quantity of the mineral and also considering the period of incarceration, this Court is inclined to grant bail to the petitioner.

6. Accordingly, this Criminal Original Petition is ordered and the petitioner is ordered to be released on bail

i) on the petitioner executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand) with two sureties each for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Thiruvidaimaruthur, Thanjavur District;

ii) The petitioner and the sureties shall submit a copy of their Aadhaar Card or any other identity card issued by the Government in proof of their residence address;



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iii) The petitioner shall appear before the respondent police as and when required for interrogation. He has to co-operate for the investigation.

iv) The petitioner shall not misuse the liberty granted to him by indulging in any further offence and shall not tamper with the prosecution witnesses. He shall be available for the trial as well.

v) On violation of any of the above conditions by the petitioner, the respondent police shall move an application for cancellation of the bail.

7. It is needless to say that any tool or instrument or vehicle used for illegal quarrying / transportation of sand is liable to be seized under Section 21(4) of the Mines and Minerals(Development & Regulation) Act, 1957 and any vehicle or instrument or tool which has been seized under Section 21(4) of the Mines and Minerals (Development & Regulation) Act, 1957, is liable to be confiscated under Section 21(4-A) of the Act.

8. Though the above provision mandates the authorities to confiscate the tool or instrument or vehicle involved in the commission of the offence of illegal quarrying / transportation of sand, the authorities have not invoked the provision under Section 21(4-A) of the Mines and Minerals (Development & Regulation) Act, 1957 and therefore, a Division Bench of this Court in W.P.No.19936 of 2016, etc., batch has emphasized the need for confiscation of the vehicles. Consequently, the Government



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has also issued certain directions to the authorities of Revenue, Police and Forest and Geology and Mining departments to seize the vehicles and for confiscation of the same in G.O.Ms.No.170, Industries (MMC-II) Department, dated 05.08.2020. Therefore, the respondent police is directed to proceed further as per Section 21 (4-A) of the Mines and Minerals(Development & Regulation) Act, 1957 and as per the guidelines issued in G.O.Ms.No.170, Industries (MMC-II) Department, dated 05.08.2020.

sd/-
15/04/2024

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15/04/2024

Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

LS
TO

1 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
THIRUVIDAIMARUTHUR, THANJAVUR DISTRICT.

2 DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.

3 THE OFFICER INCHARGE, DISTRICT JAIL, PUDUKOTTAI DISTRICT.

4 THE INSPECTOR OF POLICE,
THIRUVIDAIMARUTHUR POLICE STATION, THANJAVUR DISTRICT.

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.



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+1 CC to M/s.T.R.SUBRAMANIAN, Advocate (SR-4398[I] dated 15/04/2024)

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ORDER

IN

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Date :15/04/2024

RS//SAR-(15.04.2024) 5P 7C

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