



CRL OP(MD). No.5909 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
( Criminal Jurisdiction )

Date : 17/04/2024

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

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Ashok @ Krishnamoorthy

... Petitioner/Sole Accused

Vs

The Inspector of Police,  
Naducavery Police Station,  
Thanjavur District.  
(Crime No.173/2024).

... Respondent/Complainant

For Petitioner : M.Prabu, Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,  
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.173/2024 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.173 of 2024 for the offence under Sections 379 of IPC r/w 21(1) of Mines and Minerals (Development and Regulations) Act, 1957, and remanded him into judicial



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custody on 06.04.2024. Therefore, the petitioner has filed this petition seeking bail.

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2.The case of the prosecution is that the petitioner has illegally transported 40 bags of river sand.

3.The learned counsel appearing for the petitioner submits that the petitioner has not indulged in such criminal activities and he is languishing in jail from 06.04.2024. Therefore, he prays for grant of bail.

4.The learned Additional Public Prosecutor for the respondent strongly opposed to grant bail on the ground that the petitioner has illegally transported 40 bags of river sand. No previous case is pending against the petitioner.

5.Considering the facts and circumstances of the case, the nature of mineral involved in this case and the antecedents of the petitioner, 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 on the following conditions:-

i) The petitioner shall execute 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 Judicial Magistrate, Thiruvaiyaru;

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



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proof of their residence address;

iii) The petitioner shall report before the respondent police as and when required for the interrogation;

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. The petitioner 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 and any vehicle or instrument or tool which has been seized under Section 21 (4) of the Mines and Minerals (Development & Regulation) Act is liable to be confiscated under Section 21(4-A) of the Mines and Minerals (Development & Regulation) 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



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of 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 emphasised the need for confiscation of the vehicles. Consequently, the Government 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-2 Department, dated 05.08.2020 and therefore, the respondent police is directed to proceed further as per Section 21 (4-A) of the Mines and Minerals (Development & Regulation) Act and as per the guide lines issued in G.O.Ms.No.170, Industries MMC-2 Department, dated 05.08.2020.

sd/-  
17/04/2024

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17/04/2024  
Sub-Assistant Registrar ( )  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

SJI

To

1.The Judicial Magistrate,  
Thiruvaiyaru.

2.Do through the Chief Judicial Magistrate,  
Thanjavur District at Kumbakonam.



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3.The Inspector of Police,  
Naducavvery Police Station,  
Thanjavur District.

4.The Officer Incharge,  
Sub-Jail,  
Thanjavur.

5.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

ORDER  
IN  
CRL OP(MD) No.5909 of 2024  
Date :17/04/2024

ED/ /SAR- (17/04/2024) 5P / 6C

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