



CRL OP(MD) No.22595 of 2023

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

Thursday, the Fourth day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.22595 of 2023

MATHIYALAGAN

... PETITIONER / SOLE ACCUSED

Vs

**THE INSPECTOR OF POLICE
THIRUVAIYARU POLICE STATION,
THANJAVUR DISTRICT.
CRIME NO.325 OF 2023.**

... RESPONDENT / COMPLAINANT

For Petitioner : MR.M.PRABU, Advocate

For Respondent : MR.SS.MADHAVAN, Govt. Advocate (Crl. Side)

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

PRAYER:

**FOR ANTICIPATORY BAIL IN CRIME NO.325 OF 2023 ON THE FILE OF THE
RESPONDENT POLICE.**

ORDER : The Court Made the following order :-

The petitioner who apprehends arrest at the hands of the respondent police for

the alleged offence under Sections 379 of IPC and Section 21(1) of Mines and
<https://www.mhc.tn.gov.in/judis>



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Minerals (Development and Regulation) Act, 1957, in Cr.No.325 of 2023, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner was involved in illegal transportation of $\frac{1}{4}$ unit of river sand by using Bullock Cart. Hence, present case has been registered against the petitioner.

3.The learned counsel appearing for the petitioner would submit that the petitioner has not committed any offence as alleged by the prosecution. He would further submit that this is the second anticipatory bail petitioner. Earlier petition filed by the petitioner in Crl.OP(MD)No.18720 of 2023 was dismissed by this Court, on 18.10.2023. However, on instructions, the petitioner, without prejudice to his rights, is ready to deposit the amount a sum of Rs.20,000/- to the Mineral Foundation Trust.

4.The learned Government Advocate (Crl.Side) submitted that the vehicle involved was seized by the respondent police and he further submitted that if the person is caught with illegal sand in the mining area, he has to be directed to deposit the conditional amount to the credit of Crime number. However, in view of formation of District Mineral Foundation Trust in each District, the amount may be deposited to the credit of the said Trust for rehabilitation in the areas affected by illegal sand mining. He would further submit that the petitioner is having two previous cases

similar in nature.

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5. In view of the rehabilitation undertaken by the State Government under the Tamil Nadu District Mineral Foundation Rules, 2017, and in order to curb the illegal sand mining activities and also considering the submission made by the learned counsel for the petitioner, this Court is of the opinion that the petitioner shall be directed to make a non refundable deposit of Rs.20,000/- (Rupees Twenty Thousand only) to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions. The amount so deposited shall be utilised by the Trust for rehabilitation works.

6. It is made clear that the deposit of the amount by the petitioner to the Trust would not amount to admission of guilt. The trial Court shall deal with the case independently on merits without reference to the amount deposited at the stage of anticipatory bail.

7. Considering the facts and circumstances of the case and also considering the submission made by the learned Government Advocate (Crl.Side), this court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Judicial Magistrate, Thiruvaiyaru, on condition that

the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand

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Only) with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a)if the petitioner failed to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled;

(b)the petitioner shall make a non refundable deposit of Rs.20,000/- (Rupees Twenty Thousand only) through demand draft to the credit of the Chairman/District Collector, District Mineral Foundation Trust of the concerned District, without prejudice to his defence before the trial Court and the learned Judicial Magistrate, after perusing the challan/ receipt, shall accept the sureties furnished by the petitioner;

(c)the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(d)the petitioner shall report before the respondent police daily at 10.30 a.m. until further orders;

(e)the petitioner shall not tamper with evidence or witness either during

investigation or trial;

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(f) the petitioner shall not abscond either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]; and;

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
04/01/2024

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/01/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSS
TO

1 THE JUDICIAL MAGISTRATE,
THIRUVAIYARU.

2 DO THOUGH:
THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT @ KUMBAKONAM.

3 THE INSPECTOR OF POLICE
THIRUVAIYARU POLICE STATION,
THANJAVUR DISTRICT.



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

COPY TO

THE CHAIRMAN/ DISTRICT COLLECTOR,
DISTRICT MINERAL FOUNDATION TRUST,
THANJAVUR DISTRICT.

+1 CC to M/s.M.PRABU, Advocate (SR-143[I] dated 04/01/2024)

ORDER
IN

CRL OP(MD) No.22595 of 2023

Date :04/01/2024

PKP/DD/SAR- /09.01.2024/ 6P/ 7C

Madurai Bench of Madras High Court is issuing certified
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