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CRL OP(MD). No.23417 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 02/01/2024

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD). No.23417 of 2023

Esakkimuthu @ Kuruvi,

... Petitioner/Sole Accused

Vs

State represented by
The Inspector of Police,
Pappakudi Police Station,
Pappakudi,
Tirunelveli District.
Crime No.207/2019.

... Respondent/Complainant

For Petitioner : Mr.VIGNESH.N,
Advocate.

For Respondent : Mr.B.NAMBISELVAN,
Government Advocate (Crl.Side)

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

PRAYER :- To enlarge the petitioner on Bail in Spl SC No.353/2023 on the file of the Principal Sessions Judge, Tirunelveli in Crime No.207/2019 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/Sole Accused, who is facing trial for the offences punishable under Section 379 of I.P.C. in Spl.S.C.No.353 of 2023 on the file of the learned Principal Sessions Judge, Tirunelveli in Crime No.207 of 2019 on the file of the respondent



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police, seeks bail.

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2. The case of the prosecution is that on 22.08.2019, when the defacto complainant viz., the Special Sub-Inspector of Police, Paapakudi along with his Police Personnel were in patrol duty, they found that three sacks of river sand has been illegally transported by the petitioner in his vehicle. Hence the above case has been registered against him.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution and prayed for bail. However, on instructions, he would further submit that the petitioner is ready to deposit any amount to the District Mineral Foundation Trust without prejudice to his rights.

4. The learned Government Advocate (Criminal Side) appearing for the respondent-Police would submit that already NBW was issued against the petitioner and thereafter, he was arrested and remanded to judicial custody on 11.12.2023.

5. Heard the learned counsel on either side.

6. It appears that the petitioner has already been granted bail and he was unable to appear before the concerned Court on 05.12.2023 and pursuant to the non bailable warrant, he was arrested and remanded to judicial custody on 11.12.2023.

7. In view of the rehabilitation undertaken by the State Government under the



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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.15,000/- (Rupees Fifteen 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.

8. 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 bail.

9. Considering the facts and circumstances of the case, this court is inclined to grant bail to the petitioner, subject to the following conditions:

10. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Alangulam and on further conditions that:

(a) the sureties shall affix their photographs and left thumb

impression in the surety bond and the Magistrate may obtain a



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copy of their Aadhar card or Bank pass Book to ensure their identity;

(b)the petitioner shall make a non refundable deposit of Rs.15,000/- (Rupees Fifteen 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 petitioner is directed to appear before the trial Court for each and every hearing dates, failing which, the bail granted by this Court shall stand automatically cancelled;

(d)the petitioner shall not tamper with evidence or witness either during investigation or trial;

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

(f)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



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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;

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

sd/-
02/01/2024

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02/01/2024
Sub-Assistant Registrar
(C.S. I / II / III/ IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TSG
TO
1 THE PRINCIPAL SESSIONS JUDGE,
TIRUNELVELI.

2 THE JUDICIAL MAGISTRATE,
ALANGULAM.

3 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, TIRUNELVELI DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

5 THE INSPECTOR OF POLICE,
PAPPAKUDI POLICE STATION, PAPPAKUDI,
TIRUNELVELI DISTRICT.

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



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

COPY TO:

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

+1 CC to M/s.N.VIGNESH, Advocate (SR-19[I] dated 02/01/2024)

ORDER
IN

CRL OP(MD) No.23417 of 2023

Date :02/01/2024

SA/SAR. /02.01.2024/6P/9C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.