

(2024) 02 MAD CK 0037

Madras High Court (Madurai Bench)

Case No: Criminal Original Petition (MD) No. 2058 Of 2024

Karthi

APPELLANT

Vs

State

RESPONDENT

Date of Decision: Feb. 9, 2024

Acts Referred:

- Indian Penal Code, 1860 - Section 229A, 379
- Mines And Minerals (Development And Regulation) Act, 1957 - Section 21(4)

Hon'ble Judges: M.Dhandapani, J

Bench: Single Bench

Advocate: C.Ezhilarasu, B.Nambiselvan

Judgement

M.Dhandapanim, J

1.The petitioner/A1, who was arrested and remanded to judicial custody on 26.01.2024 for the alleged offence punishable under Section 379 of I.P.C r/w Section 21(4) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.144 of 2024 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 26.01.2024 at about 09.30 p.m, when the defacto complainant and his Police team were on patrol duty, the petitioner was found in illegal transportation of 4 gunny bags of river sand. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any such offence as alleged by the prosecution. He would further submit that the petitioner is in judicial custody from 26.01.2024. However, on instruction, he would further submit that the petitioner, without prejudice to his rights, is ready to deposit a sum of Rs.5,000/- to the High Court Environmental Committee and hence, he prays for bail.

4. The learned Additional Public Prosecutor appearing for the respondent Police strongly opposed to grant bail stating that the petitioner had transported 4 gunny

bags of river sand illegally.

5. Considering the period of incarceration and also considering the quantity of the sand transported by the petitioner, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

6. 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, Papanasam, 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 copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) as per the undertaking given by the petitioner, the petitioner is directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) to the credit of the Environmental Committee Operated by Registrar (Judicial) [Account No.7633863037; MICR Code: 625019020, CIF No: 30602376727, IFSC Code: IDIB000H040, High Court Branch, Madurai (2001)], without prejudice to his rights and contentions before the trial Court and produce the receipt/acknowledgment before the trial Court while executing the sureties;

(c) the petitioner is directed to appear before the respondent police daily at 10.30 a.m and thereafter, as and when required for interrogation;

(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 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.