



Crl.O.P.No.5245 of 2023

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A.D.JAGADISH CHANDIRA, J.

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 2(e)(II), 2(e)(VII) of the Motor Spirit and High Speed Diesel (Regulation of Supply and Distribution and Prevention of Malpractices) Order, 1998 and Section 7(1)(a)(II) of the Essential Commodities Act, 1955, in Crime No.18 of 2023, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Nandhakumar, Deputy Superintendent of Police, Civil Supplies CID, Chennai-North Police Station is that on information he had gone near Nemilichery Service Road and he had seen 5 persons taking diesel from Ashok Leyland tanker lorry bearing Registration No.TN 05 BC 7698 and they attempted to escape and they were apprehended by the respondent. They have confessed that they are drivers of the contractual lorries transporting diesel from the refineries to petrol bunk and that they have committed theft of diesel. Hence the complaint.



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3. The learned Counsel 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 the petitioner is the owner of the lorry. He has been awarded contract to transport of diesel from the refineries to petrol bunk and without the knowledge of the petitioner, the drivers have committed theft of diesel from the lorry and the petitioner has nothing to do with the crime as alleged by the prosecution. He would also submit that the arrested accused have been released and the entire contraband has been seized from them. The petitioner is having no previous cases against him. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner is a contractor engaged by the Oil company for transport of oil from refineries to the petrol bunk and he along with other drivers have committed theft of diesel. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.



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5. Heard both sides and perused the materials available on record.

6. The petitioner is the owner of the lorry and the pilferage has been committed by the drivers.

7. Considering the above facts and circumstances of the case and the submissions made on either sides, 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 on which the order copy made ready, before the **Judicial Magistrate Court No.I, Tiruvallore**, on condition that the petitioner shall execute a bond for a sum of **Rs.15,000/- (Rupees Fifteen Thousand 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, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of his Aadhar card or



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Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent police every day at 10.30 a.m., for a period of one week and thereafter as and when required for interrogation.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] 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]**.

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

07.03.2023

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