



WEB COPY



CrI.O.P.No.11783 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.05.2024

CORAM:

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CrI.O.P.No.11783 of 2024

1. Sababathi
S/o.Rangasamy Gounder

2. Sathishkumar
S/o.Sabapathi

3. Balakrishnan
S/o.Shanmugam

... Petitioners/ Accused 1 to 3

Versus

State rep. by
The Inspector of Police,
Dhally Police Station
Tiruppur District.
(Crime No.78 of 2024)

... Respondent/Complainant

PRAYER:

Criminal Original Petition filed under Section 438 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to enlarge the petitioners on bail in the event of their arrest by the respondent police concerned in Crime No.78 of 2024 pending on the file of the respondent police.

For Petitioners : Mr.Narayana Prasadh

For Respondent : Mr.C.E.Pratap
Government Advocate (CrI.Side)



WEB COPY

ORDER

This Criminal Original Petition has been filed by the petitioners on 13.05.2024 under Section 438 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant an order of pre-arrest bail.

2. The petitioners/ A1 to A3, apprehend arrest at the hands of the respondent police for the alleged offences punishable under Section 379 of the Indian Penal Code, 1860 (Act No.45 of 1860) in Crime No.78 of 2024 on the file of the respondent police.

3. The case of the prosecution is that on 05.04.2024, the *de facto* complainant, who is the Assistant Engineer of Water Resources Department, Thirumoorthi Nagar, Udumalpet, has lodged a complaint before the respondent police alleging that on 04.04.2024, the petitioners committed water theft from the water channel of Aliyar dam. Hence, the case.

4. The learned counsel for the petitioners submitted that the petitioners are innocent persons and have not committed any offence as alleged by the prosecution. He further submitted that a false case has been foisted against the



petitioners by the respondent police. Accordingly, he prayed to grant an order of pre-arrest bail to the petitioners.

5. The learned Government Advocate (Crl. Side) for the respondent police submitted that as against A1, two previous cases are pending that as against A2, four previous cases are pending; as against A3 there is no previous case. Accordingly, he prayed to dismiss the Criminal Original Petition.

6. Heard on both sides. This Court has perused the records.

7. This Court has perused the averments made in the FIR. Prosecution's case is that the petitioners illegally drew water from the water channels of Aliyar Dam. Considering the facts and circumstances of the case, the nature of the offence, and the fact that the petitioners have permanent residence, this Court is of the view that custodial interrogation of the petitioners is not necessary. Hence, also with a view to offer an opportunity to reform themselves, this Court grants an order of pre-arrest bail to the petitioners subject to the following conditions.



(i) The petitioners shall be released on bail in the event of their arrest or in the event of their surrender before the **Judicial Magistrate-II Court, Udumalpet**, within a period of 15 days from today, on executing a bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only) each, along with two sureties each for a like sum of Rs.15,000/- (Rupees Fifteen Thousand only) to the satisfaction of the learned **Judicial Magistrate-II, Udumalpet**;

(ii) The petitioners shall appear and sign before the **respondent police, daily at 10.00 a.m.**, until further orders;

(iii) The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Judicial Magistrate shall obtain a copy of any one of identity proofs to ensure their identity;

(iv) The petitioners shall make themselves available for interrogation by police as and when required;

(v) The petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer;

(vi) The petitioners shall not leave India without the prior permission of the Court; and

(vii) On breach of any of the aforementioned conditions, the learned



Crl.O.P.No.11783 of 2024

Judicial Magistrate/Trial Court is entitled to pass appropriate orders against the petitioners in accordance with law as if the aforementioned conditions are imposed by themselves as laid down by the Hon'ble Supreme Court in **P.K.Shaji Vs. State of Kerala [(2005) 13 SCC 283]**.

9. Accordingly, this Criminal Original Petition is allowed subject to the conditions stated *supra*.

16.05.2024

Index : Yes/No

Internet : Yes/No

Neutral citation : Yes/No

mk/ms

Note:-

- 1. Registry is directed to forthwith upload this order in the official website of this Court.**
- 2. All concerned to act on this order being uploaded in official website of this Court without insisting on certified hard copies. To be noted, this order when uploaded in official website of this Court will be watermarked and will also have a QR code.**



WEB COPY



Crl.O.P.No.11783 of 2024

R.SAKTHIVEL, J.

mk/ms

To

1. The Judicial Magistrate No.II
Judicial Magistrate Court-II
Udumalpet.
2. DO THROUGH:
The Chief Judicial Magistrate, Tiruppur.
3. The Public Prosecutor,
High Court, Madras.
4. The Inspector of Police,
Dhally Police Station
Tiruppur District.

Crl.O.P.No.11783 of 2024

16.05.2024