



Crl. O.P. No. 19412 of 2024

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P. DHANABAL.J.,

The petitioners apprehend arrest for the alleged offences under Sections 303 (2), 326 (a) BNS r/w Section 21(1) of the Mines and Minerals(Development & Regulation) Act 1957 in Crime No.457 of 2024 on the file of the respondent police seek anticipatory bail.

2.The case of the prosecution is that on 07.08.2024 at approximately 5:30 p.m., while conducting a routine vehicle check on Thirupathur Main Road near Bharath Petrol Bunk, the respondent police intercepted a tipper lorry with registration No. TN-32-AR-6579 that was approaching from the opposite direction. Upon seeing the police, the lorry driver stopped and fled the scene. The police searched the lorry and discovered 2 units of red soil. Consequently, they seized the lorry and brought it to the police station, where a case was registered. Hence the case.

3.The learned counsel for the petitioner would contend that the petitioners are innocent and a false case has been made against them. The petitioners 2 & 3 are the driver and owner of the Tipper Lorry bearing



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registration No.TN-32-AR- 6579. The petitioners have not committed any offence as alleged by the respondent police and hence, he seeks anticipatory bail.

4.The learned Government Advocate (criminal side) representing the respondent police submitted that the petitioners illegally transported three units of river sand. The petitioners are arrayed as accused A1 to A3, wherein, the petitioners 2 and 3 are being the driver and owner of the lorry. On the direction of the first accused transported the river soil using the 3rd petitioner's lorry. A1 has three previous cases, while A2 and A3 have no previous cases. The value of the property involved is approximately Rs.10,000. Therefore, he objected to grant anticipatory bail to the petitioners.

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

6.Considering the rival submissions on either side and considering the nature of the offence and considering that except the first accused, all other accused have no previous case as against them in similar kind of offences and also considering the the quantity of the material involved in



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this case and the sand was recovered by the concerned officials and also considering the other aspects, I am inclined to grant anticipatory bail to the petitioners subject to the following conditions.

7. Accordingly, this Criminal Original petition stands **allowed**. The petitioners are ordered to be released on anticipatory bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned **Judicial Magistrate No.II, Thirupathur**, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties for a like sum to the satisfaction of the learned Magistrate concerned and on further condition that:

[a] the Petitioners 2 and 3 must report to the respondent police, while the first petitioner must report to the Bargur Police Station, Krishnakiri District, every Saturday at 10:30 am., until further orders;

[b] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioners shall not abscond either during investigation or trial.



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[d] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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].

[e] If the accused thereafter abscond, a fresh FIR can be registered under Section 269 B.N.S.2023.

12.08.2024

jrs



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To

1. The Judicial Magistrate No-II, Thirupathur.
2. The Inspector of Police, Kandili Police Station,
Thirupathur District.
3. The Public Prosecutor,
High Court, Madras.



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