



Crl.O.P. No.21325 of 2024

Crl.O.P. No.21325 of 2024

P. DHANABAL.J.,

The petitioner apprehends arrest for the alleged offences under Sections 296(b), 132 and 351(2) of the Bharatiya Nyaya Sanhita, 2023 r/w.Sec.9(2) & 24(1) of COTPA Act in Crime No.380 of 2024, on the file of the respondent police seeks anticipatory bail.

2.The case of the prosecution is that on 30.07.2024 at 08.45 a.m., the respondent police was conducted vehicle check up near the Thirukzhukundram-Veeranam Junction, they noticed that one person carrying a white plastic bag in a motorcycle. The respondent police stopped the motorcycle and made search and the respondent police found 42 packets of banned tobacco products. Hence the case.

3. The learned counsel for the petitioner would contend that only based on the confession statement of the 1st accused, this petitioner has been arrayed as 3rd accused. There is no previous case as against this petitioner. This petitioner is an innocent person and he had not indulged in any illegal activities as alleged by the prosecution and he has been falsely implicated in this case by the respondent police and hence he seeks



Crl.O.P. No.21325 of 2024

anticipatory bail to the petitioner.

WEB COPY

4. The learned Government Advocate (Criminal Side) would submit that the respondent police while conducting vehicle checkup, they found illegal possession banned tobacco products from the 1st accused. Based on his confession statement, this petitioner was arrayed as accused. Already the 1st accused was arrested and subsequently released on bail. There is no previous case as against this petitioner. However, the learned Government Advocate (Criminal Side) vehemently opposed to grant anticipatory bail to the petitioner.

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

6. Considering the rival submissions on either side, considering the fact that the nature of offence involved in this case, no previous case is pending against the petitioner, based on the confession statement of 1st accused, this petitioner was arrayed as 3rd accused and the 1st accused was arrested and subsequently released on bail and considering other aspects, this court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions:



WEB COPY



Crl.O.P. No.21325 of 2024

7. Accordingly, the petitioner is ordered to be released on anticipatory 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 learned **District Munsif cum Judicial Magistrate Court, Thirukazhukundram** on condition that the petitioner shall execute 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 Magistrate concerned and on further condition that:

[a] the petitioner shall report before the respondent police daily at 10.00 a.m for the period of four weeks;

[b] the petitioner 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 him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

[c] the petitioner shall not leave India without the prior permission of the Court.

[d] the petitioner shall not abscond either during



WEB COPY



Crl.O.P. No.21325 of 2024

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 269 B.N.S.2023.

03.09.2024

gvn



WEB COPY



CrI.O.P. No.21325 of 2024

P.DHANABAL,J

gvn

CrI.O.P.No.21325 of 2024

03.09.2024