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Crl.O.P.No.25559 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2024

CORAM

THE HON'BLE MR. JUSTICE **P.DHANABAL**

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1.Sivabalan

2.Nepolian

... Petitioners

Vs.

State represented by,
The Inspector of Police,
B-5 Harbour Police Station,
Chennai.
(Crime No. 90 of 2024).

... Respondent

PRAYER: Criminal Original Petition filed under Section 483 of B.N.S.S.,
pleased to enlarge the petitioners on bail, in Crime No.90 of 2024 on the file
of the respondent Police.

For Petitioners : Mr.S.Prabudoss

For Respondent : Mr.S.Vinothkumar
Government Advocate (Crl.Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 13.09.2024, for the alleged offences punishable under Section 305 and



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306 of BNSS, in Crime No.90 of 2024, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant is working as an Operation Manager at Chennai International Terminal Private Limited. On 07.09.2024 at about 3.57 p.m, one shipment landed at Chennai harbour from China, containing, 5230 numbers of Dell Note Book Computer spares worth about Rs.34,98.58.779.80. It is further alleged that when they started tracking of the container, they found that the petitioners along with other accused moved the container using the user ID and Password of an Assistant Manager and looted the container. Hence the complaint.

3. Learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have been falsely implicated in this case. He further submits that the petitioners are working as a cleaner and driver in the Tractor. He further submits that the co-accused/A1 was released on bail before the Sessions Court. They have not committed any offence as alleged in the FIR. He would further submits that the petitioners were arrested and are in judicial custody for more than 40 days and are ready to



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abide by any conditions that may be imposed by this Court. Hence, he prayed bail for the petitioners.

4. The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that there are totally eight accused in this case and the petitioners herein are arrayed as A3 and A4. He further submits that on the date of the alleged occurrence, these petitioners along with other accused had committed the theft of the container, containing 5230 numbers of Dell Note Book Computer worth about Rs.34,98.58.779.80. He further submits that 5200 numbers of Dell Note Book Computer have been recovered. He further submits that investigation is still pending. However, he opposed to grant bail to the petitioners.

5. Heard both sides and perused the materials available on record including the First Information Report.

6. Considering the nature of offence, considering the period of incarceration undergone by the petitioners from 13.09.2024, and the second petitioner has no previous case and the first petitioner has one previous case,



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which is not similar kind of offence, in that, he has been released on bail, already the property was recovered, and these petitioners are the driver and cleaner of the vehicle involved in this case and already the prime accused was arrested and released on bail, and also considering all others factors, I am inclined to grant bail to the petitioners, subject to certain conditions.

7. Accordingly, the petitioners are ordered to be released on bail on their executing 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 XVI Metropolitan Magistrate, George Town, Chennai, and on further conditions that:-

[a] the petitioners shall report before the respondent police daily at 10.30 a.m., for a period of 30 days and thereafter as and when required for interrogation.

[b] the Petitioners shall not commit any offences of similar to the offence of which he is accused, or suspected, or of the commission of which he is suspected;

[c] the Petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the



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case so as to dissuade him from disclosing such facts to the Court or to any police officer;

[d] the Petitioners shall not abscond either during investigation or trial;

[e] On breach of any of the aforesaid conditions, the learned Judicial 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]; and

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

22.10.2024

drl

To

1.The Metropolitan Magistrate No.XVI,
George Town, Chennai.

2.The Inspector of Police,
B-5 Harbour Police Station,
Chennai.

3.The Superintendent,
Central Prison, Puzhal, Chennai.

4.The Public Prosecutor,
High Court of Madras.

P.DHANABAL, J.



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