



Crl.O.P.No.28723 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM

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

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1.Munusamy

2.Elumalai @ Edumalai

... Petitioners

Vs.

State Represented by,
The Inspector of Police,
Kanchi Taluk Police Station,
Kancheepuram District.
Crime No.814 of 2024.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of BNSS, pleaded to enlarge the petitioners on bail in the event of their arrest by the respondent police concerned in Crime No.814 of 2024 on the file of the respondent police.

For Petitioners : Mr.S.Sasikumar

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

ORDER

The petitioners / Accused 5 & 6, who apprehend arrest at the hands



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of the respondent police for the offences punishable under Sections 326(2), 303(2) of BNS 2023 and Section 21(1) of Mines and Minerals (Development Regulation) Act, 1957 in connection with the Cr. No.814 of 2024, seek anticipatory bail.

2. The case of the prosecution is that on 20.09.2024, when the respondent police along with his police parties were conducted routine vehicle check up at Karaipattai Cancer Hospital, at that time, they found the petitioners along with other accused persons were illegally transporting 20 units of river sand in a lorry, without valid permission. Hence, the complaint.

3. Learned counsel for the petitioners submitted that this is the second anticipatory bail petition filed by the petitioner. He further submitted that the petitioners are innocent persons, and they have been falsely implicated by the respondent police and they are in no way connected with the offences as alleged by the prosecution. He further submitted that the petitioners are the owner of lorries and their vehicle was used without their instructions. He further submitted that co-accused were enlarged on bail by



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the Lower Court, and hence he prayed to grant anticipatory bail to the petitioners.

4. Learned Government Advocate (Criminal Side) would submit that on the date of the alleged occurrence, when the respondent police along with his police parties were conducted routine vehicle check up at Karaipattai Cancer Hospital, at that time, they found the petitioners along with other accused persons were illegally transporting 20 units of river sand in a lorry and that the petitioners are the owners of the lorries. He further submitted that based on the confession of the accused persons/A1 to A4, these petitioners were arrested; and that during investigation, it was revealed that the petitioners are the owners of the lorries and they instructed the accused persons /A1 to A4 to transport the river sand from Ranigunda without any valid permission; and that the petitioners have no previous cases, pending against them. However, he strongly objected to grant anticipatory bail to the petitioners.

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



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6. Considering the representation made by both side counsel, nature of offence, and the fact that the co-accused, who are the driver and cleaner of the lorry alleged to have transported sand, have already been arrested and released on bail, and that no previous cases are pending against petitioners, and also considering all other factors, I am inclined to grant anticipatory bail to the petitioners subject to the following conditions.

7. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen (15) days from the date on which the order copy made ready, before the learned **Judicial Magistrate No.II, Kancheepuram**, on condition that the petitioners 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 petitioners shall report before the Ponnerikarai Police Station, **daily at 10.30 a.m. until further orders.**

[b] 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 them from disclosing such facts to the Court or to any police officer or tamper with the evidence;

[c] the petitioners shall not leave India without the previous permission of the Court;

[d] the petitioners 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 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].

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

13.12.2024

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P.DHANABAL, J.

drl

To

1. The Judicial Magistrate No.II,
Kancheepuram.
2. The Public Prosecutor,
High Court, Madras.

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