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Crl.O.P.No.29042 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2024

CORAM

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.29042 of 2024

Subash

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Thittachery Police Station,
Nagapattinam District

(Crime No.162 of 2024).

... Respondent

PRAYER: Criminal Original Petition filed under Section 483 of BNSS Act, pleaded to enlarge the petitioners on bail, in connection with Cr.No.162 of 2024 on the file of the respondent.

For Petitioners : Mr.J.Jawahar

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed by the petitioner, who was arrested and remanded to judicial custody on 16.10.2024, seeking bail in Crime No.162 of 2024 registered for the offence under Sections



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303(2), 326(a) of BNS r/w 21(1) of Mines and Minerals (Development and Regulations) Act, 1957.

2. The case of the prosecution is that when the respondent conducted a raid near the banks of Mudikonda river, they found that the accused had illegally transported half unit of river sand, in a four wheeler bearing registration No.TN 50 AJ 5392, without any permission. Hence the case.

3. Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He also submitted that the petitioner is in custody from 16.10.2024 and he is ready to abide by any stringent conditions that may be imposed by this Court. Hence, he prayed for grant of bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police, while opposing for grant of bail to the petitioner, submitted that the petitioner had illegally transported half unit of river sand, in a four wheeler bearing registration No.TN 50 AJ 5392, without any



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permission. He further submitted that no previous cases are pending against the petitioner.

5. At this juncture, the learned counsel for the petitioner submitted that the petitioner, without prejudice to their defense and contention, is ready and willing to deposit an amount of Rs.2,000/- as non-refundable deposit to any welfare scheme of the Government or any organization. Hence, he prayed for grant of bail to the petitioner.

6. Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Crl.Side) for the respondent Police and perused the materials available on record.

7. On considering the voluntary submission made by the learned counsel for the petitioner, the petitioner is directed to deposit a sum of Rs.2,000/- as non refundable deposit to the credit of the "District Legal Services Authority, Nagapattinam District", without prejudice to his rights and contentions before the trial Court.



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8. Merely because the petitioner deposits the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

9. Taking into consideration the above facts and circumstances of the case, the submissions made by the learned counsel on either side and also considering that there are no previous cases as against the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

10. Accordingly, the petitioner is ordered to be released on bail on condition to make a non-refundable deposit of **Rs.2,000/- (Rupees Two Thousand only)** to the credit of "**District Legal Services Authority, Nagapattinam District**", without prejudice to his rights and contentions before the trial Court and on such deposit and production of proof, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.15,000/- (Rupees Fifteen Thousand only)** with **two sureties**, each for a like sum to the satisfaction of the learned **District and Sessions Judge, Nagapattinam**, and on further conditions that:



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[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

[b] the petitioner shall report before the respondent Police, everyday at 06.30 p.m., for a period of two weeks and thereafter, on every Saturday at 10.30 a.m., until further orders;

[c] the petitioner shall not abscond either during investigation or trial;

[d] the petitioner shall not tamper with evidence or witness 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 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 abscond, a fresh FIR can be registered under Section 269 of B.N.S.

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A.D.JAGADISH CHANDIRA.,J.

Anu

To

1. The District and Sessions Judge,
Nagapattinam.
2. The Inspector of Police,
Thittachery Police Station,
Nagapattinam District
3. The Superintendent,
District Jail, Nagapattinam
4. The Public Prosecutor,
High Court of Madras.

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