



Crl.O.P.No.29649 of 2024

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A.D.JAGADISH CHANDIRA, J.

Apprehending arrest in connection with Crime No.929 of 2024 registered for the offences punishable under Sections 303(2) & 326(a) of BNS, 2023, the present petition has been filed seeking anticipatory bail.

2. The case of the prosecution is that when the respondent police were patrolling at Thennaipennai River, they intercepted a bullock cart and found the petitioners in possession of $\frac{1}{4}$ unit of river sand. Hence, the case.

3. Pleading innocence on the part of the petitioners, false implication in the case, learned counsel for the petitioners seek indulgence of this court. He would submit that the petitioners are ready to abide by any stringent condition that may be imposed by this Court. He also submits that the petitioners, without prejudice to the defence and contention, are ready and willing to deposit a sum of Rs.5,000/- as non-refundable deposit to any welfare scheme of the Government or any organization. Hence, he prayed for grant of anticipatory bail to the petitioners.



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4. The case of the prosecution as putforth by the learned Government Advocate (Criminal Side) appearing for the respondent police, opposing for grant of anticipatory bail, would submit that petitioners involved in illegal transporting of 1/4 unit of river sand using a bullock cart. He would submit that A-1 has one previous case and A-2 has no previous case.

5. Learned counsel for the petitioners at this juncture, seeks permission of this Court to withdraw this petition in respect of first petitioner and he has also made an endorsement to that effect.

6. In view of the submissions made by the learned counsel for the petitioners, this Criminal Original petition is dismissed as withdrawn in respect of first petitioner.

7. In respect of grant or refusal of anticipatory bail to the persons indulging in illegal sand mining, smuggling and theft of sand and minerals, the Apex Court in ***S.Mohamed Shahul Hameed Vs. State rep. by the Inspector of Police (Special Leave to Appeal (Crl.) No.6029 of 2020 dated 11.12.2020)***, while expressing disagreement with the sweep observation made by this Court on the aspect of continuous misuse of discretionary power by the offenders and



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the enforcers as well in an organised manner, has clarified that in consideration of anticipatory bail, the role assigned to a person would have to be considered.

8. Considering the voluntary submission made by the learned counsel for the petitioners, the second petitioner/A-2 is directed to deposit a sum of **Rs.5,000/- (Rupees Five Thousand only)** as non refundable deposit to "**The District Legal Services Authority, Villupuram**" without prejudice to the right of defence before the Trial Court and making it clear that it would not amount to admission of guilt.

9. Further, having heard the learned counsel for the petitioners and the learned Government Advocate (Criminal Side) for the respondent Police and perused the materials available on record, this court is inclined to grant anticipatory bail to the second petitioner/A-2 with certain conditions.

10. Accordingly, the second petitioner/A-2 is directed to make a non-refundable deposit of **Rs.5,000/- (Rupees Five Thousand only)** by way of Demand Draft/RTGS/NEFT to the credit of "**The District Legal Services Authority, Villupuram**", without prejudice to his rights and contentions before the trial Court, on such deposit and production of proof, the second



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petitioner/A2 is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **District Munsif cum Judicial Magistrate, Tiruvennainallur**, on condition that the second petitioner/A-2 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 respondent police or the police officer who intends to arrest or to the satisfaction of the said Magistrate, on further condition that:

[a] if the second petitioner/A-2 fail to surrender before the said Magistrate within a period of fifteen days, this Order shall stand automatically cancelled;

[b] **the second petitioner/A-2 shall report before the respondent police daily at 10.30 a.m, until further orders;**

[c] the second petitioner/A-2 shall not tamper with evidence or witness either during investigation or trial;

[d] the second petitioner/A-2 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 second petitioner/A-2 in accordance with law as if the conditions have been imposed and the second petitioner/A-2 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];**



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[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 of BNS.

dsn

27.11.2024

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