



CRL OP NO.30806 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-12-2024

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THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

CRL OP NO.30806 of 2024

Suresh

Petitioner(s)

Vs

State rep. by

The Inspector of Police,

Omerabad Police Station,

Tirupathur District.

Respondent(s)

PRAYER: Criminal Original Petition is filed under Section 482 of BNS, pleaded to enlarge the petitioner on bail in the event of arrest by the respondent police in Crime No.830 of 2024 on the file of the respondent police.

For Petitioner(s):

D.Thirumoorthy

For Respondent(s):

S.Santhosh

Government Advocate (Crl. Side)

ORDER

Apprehending arrest in connection with Crime No.830 of 2024, registered for the offences



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punishable under Sections 303(2) and 326 of BNS, the present petition has been  ing anticipatory bail.

2.The case of the prosecution is that the petitioner caught red handed while transporting 1/4 unit of river sand in his bullock cart without obtaining valid permit / License, which amounts to illegal sand mining. Hence, the case.

3.Pleading innocence on the part of the petitioner, false implication in the case, learned counsel for the petitioner seeks indulgence of this court. He would submit that the petitioner is a farmer and he had transported sand for his own purpose. He is the only bread winner of his family. He would further submit that he is ready to abide by any stringent condition that may be imposed by this Court. He would further submit that he has one previous case against him and without prejudice to his contentions, he is ready to deposit a considerable amount to any Charitable Institution.

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, is that the petitioner caught red handed while transporting 1/4 unit of river sand in his bullock cart without obtaining valid permit / License. He would further submit that there is one previous

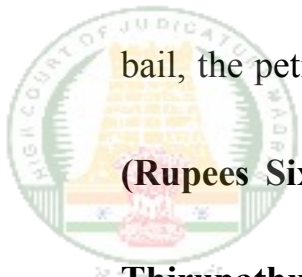


case as against the petitioner.

5. Having heard the learned counsel for the petitioner, 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 petitioner with certain conditions.

6. 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 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.

7. Taking into consideration the facts and circumstances of the case and the sand involved is small quantity and that there is no previous case pending against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner. However, in order to curb illegal sand mining activities and taking into consideration the voluntary submission made by the petitioner offering to deposit a considerable amount to any charitable organization or association, this Court is of the opinion that as one of the conditions for grant of anticipatory



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bail, the petitioner may be directed to make a non-refundable deposit of a sum

(Rupees Six Thousand only) to the credit of "The District Legal Services Authority, Thirupathur District", without prejudice to his rights and contentions before the trial Court.

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8.It is made clear that merely because the petitioner is depositing the amount, it would not amount to the petitioner admitting his guilt in the criminal case and such amount is being paid without prejudice to the right of the petitioner.

9.Accordingly, the petitioner shall make a non refundable deposit of **Rs.6,000/- (Rupees Six Thousand only)** by way of Demand Draft/RTGS/NEFT to the credit of the **"The District Legal Services Authority, Thirupathur District"**, and on such deposit and on receipt of proof of payment, the petitioner 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 **Judicial Magistrate, Ambur**, on condition that the petitioner shall execute 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 respondent police or the police officer who intends to arrest or to the satisfaction of the said Magistrate, on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left

Thumb Impression in the surety bond and the Magistrate may obtain a



copy of his Aadhar Card or Bank pass Book to ensure their identity;

[b] the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[d] the petitioner 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 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 of BNS.

11-12-2024

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A.D.JAGADISH CHANDIRA, J.

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To

1.Judicial Magistrate, Ambur.

2.The Inspector of Police,

Omerabad Police Station,

Tirupathur District.



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