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CrI.O.P.No.31530 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.12.2024

CORAM

THE HONOURABLE Mr. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.31530 of 2024

1.Venkadesan
2.Manikandan

....Petitioners

Vs

The State represented by
The Inspector of Police,
Thirunavalur Police Station,
Kallakurichi District.
(Cr.No.662 of 2024)

....Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, praying to enlarge the petitioners an anticipatory bail in the event of their arrest in Cr.No.662 of 2024, on the file of the respondent police.

For Petitioners : Mr.Saravanakumar

For Respondent : Mr.Santhosh
Government Advocate (CrI.Side)

ORDER

Apprehending arrest in connection with Crime No.662 of 2024 registered for the offences punishable under Section 303(2) of Bharatiya Nyaya



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anticipatory bail, is that the quantity of pebble stone involved is 2 units. He would submit that the 1st petitioner is the driver and the 2nd petitioner is the owner of the vehicle.

5. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.side) for the respondent and perused the materials available on record.

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 organized 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 pebbles involved is small quantity, this Court is inclined to grant anticipatory bail to the petitioners. However, in order to curb illegal sand



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mining activities and taking into consideration the voluntary submission made by the petitioners 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 bail, the petitioners may be directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) each to the credit of District Legal Services Authority, Kallakurichi District, without prejudice to their rights and contentions before the trial Court.

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

9.Accordingly, the petitioners shall make a non refundable deposit of **Rs.5,000/- (Rupees Five Thousand only)** each by way of Demand Draft/RTGS/NEFT to the credit of the **District Legal Services Authority, Kallakurichi District**, and on such deposit and on receipt of proof of payment, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Ulundurpet, on



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condition that each of the petitioner 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 petitioners fail to surrender before the said Magistrate within a period of fifteen days, this Order shall stand automatically cancelled;

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

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

[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];



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A.D.JAGADISH CHANDIRA, J,

rpl

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

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Index : Yes/No
Internet : Yes/No
rpl

To

1.The Inspector of Police,
Thirunavalur Police Station,
Kallakurichi District.

2.The Public Prosecutor,
High Court, Madras.

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