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Crl.O.P.No.31433 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-12-2024

CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

CRL OP NO. 31433 of 2024

Challa Ankaiah
S/o. Challa Venkataramaiah, Racharlavarikndriga
Village, Gottiprolu, Nellore District, Andhra Pradesh.

Petitioner(s)

Vs

State Rep By, The Inspector Of Police
Padhirivedu Police Station, Thiruvallur District.
Crime No. 419 Of 2024

Respondent(s)

For Petitioner(s):

A.Arun Kumar
C Arivazhagan

For Respondent(s):

Public Prosecutor

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 379 and 430 of IPC r/w. Section 21(1) of TNMMDR Act in Crime No.419 of 2024, on the file of the respondent police, seeks anticipatory bail.



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2. The case of the prosecution is that, while the respondent police conducted vehicle check up, they found that the petitioner herein had involved in illegal transportation of river sand in his tractor without valid license or permit. On seeing the police, the petitioner ran away from the spot. Hence, this case.

3. Learned counsel appearing for the petitioner would submit that petitioner is innocent and has not committed any offence and falsely implicated in this case. He further submitted that the petitioner is the owner-cum-driver of the tractor and without prejudice to his contentions is prepared to deposit an amount of Rs.5,000/- towards any charitable organization or association and also ready to produce solvent sureties and to abide by any conditions that may be imposed by this Court and also undertake to appear and to co-operate for the investigation, therefore, he prayed for the grant of anticipatory bail to the petitioner.

4. Learned Government Advocate (Crl. Side) appearing for the respondent police opposed for granting of anticipatory bail to the petitioner, stating that the petitioner had involved in illegal transportation of river sand in his tractor. He would further submit that the petitioner has no previous case.



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5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent police and perused the materials available on record including the FIR.

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 note of the facts and circumstances of the case, the submissions made by the learned counsel on either side, considering that the petitioner has no previous case 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 bail, the petitioner may be directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) to the credit of District Legal Services Authority, Thiruvallur 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.5,000/- (Rupees Five Thousand only)** by way of Demand Draft/RTGS/NEFT to the credit of the **District Legal Services Authority, Thiruvallur**, 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 on which the order copy made ready, before the *learned District Munsif Cum Judicial Magistrate at Gummidipoondi* 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 learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further conditions that:

[a] the petitioner and the sureties shall affix their



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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 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 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].

A.D. JAGADISH CHANDIRA, J.

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



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To

1. State Rep By, The Inspector Of Police
Racharlavarikndriga Village Gottiprolu Nellore District
Andra Pradesh Padhirivedu Police Station,
Thiruvallur District.
Crime No. 419 Of 2024

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