



Crl.O.P.No.31461 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-12-2024

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CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

CRL OP NO. 31461 of 2024

Chan Basha And Others

No 27/1 Kuttakara Street Arcot Taluk DistrictS/o.

ANWAR BASHA, NO 27/1 KUTTAKARA

STREET, ARCOT TALUK DISTRICT. and 2 Others

Petitioner(s)

Vs

State Rep By, Inspector Of Police

Baluchetty Police Station, Kancheepuram District.

Crime No. 478 Of 2024No 27/1 Kuttakara Street

Arcot Taluk District

Respondent(s)

For Petitioner(s):

Thirumoorthy D

D.Thirumoorthy

D.Rameshkumar

For Respondent(s):

Public Prosecutor

ORDER

The petitioners apprehend arrest at the hands of the respondent police for the offences punishable under Sections 303(2) and 326(a) of BNS r/w 21(1) of Mines and Minerals Act, 1957 in Crime No.478 of 2024, on the file of the respondent police, seek anticipatory bail.



2. The case of the prosecution is that the petitioners have involved in illegal transportation of 5 units of Morambu stones in their vehicles, without valid permit or license. Hence, this case.

3. Learned counsel for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He further submitted that the petitioners had not committed any offence as alleged by the prosecution and without prejudice to their contentions, the petitioners are prepared to deposit an amount of Rs.10,000/- each towards any charitable organization or association. Therefore, he prays for grant of anticipatory bail to the petitioners.

4. Learned Government Advocate (Crl. Side) appearing for the respondent Police vehemently opposed for grant of anticipatory bail to the petitioners by stating that the quantity of Morambu stones involved is 5 units. He would further submit that the petitioners are the owner and driver of the vehicles in which Morambu stones were transported. He also submitted that the petitioners have no previous case.

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.

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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 quantity of Morambu stones involved in this case, this Court is inclined to grant anticipatory bail to the petitioners. 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 bail, the petitioners may be directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) each to the credit of District Legal Services Authority, Kancheepuram District, without prejudice to their rights and contentions before the trial Court.



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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 petitioners.

9. Accordingly, the petitioners shall make a non refundable deposit of **Rs.10,000/- (Rupees Ten Thousands only) each** by way of Demand Draft/RTGS/NEFT to the credit of the **District Legal Services Authority, Kancheepuram 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 on which the order copy made ready, before the **Judicial Magistrate - I, Kancheepuram** on condition that the petitioners 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 learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further conditions that:

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



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

[c] the petitioners shall not abscond either during investigation or trial.

[d] 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]**;

[e] If the accused thereafter abscond, a fresh FIR can be registered under Section 269 BNS.

17.12.2024

stn

A.D. JAGADISH CHANDIRA, J.

stn



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To

1. State Rep By, Inspector Of Police
Baluchetty Police Station,
Kancheepuram District.
Crime No. 478 Of 2024No 27/1 Kuttakara Street Arcot
Taluk District

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