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CRL OP No. 31951 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-12-2024

CORAM

THE HON'BLE MR JUSTICE A.D.JAGADISH CHANDIRA

CRL OP No. 31951 of 2024

Kanagaraj,
S/o. Kanna,
No.72 A, Main Road,
Pudirampattu Village,
Kallakurichi District.

Petitioner(s)

Vs

State Rep.By,
The Sub Inspector Of Police,
Kallakurichi Police Station, Kallakurichi District.
(Crime No.887 of 2024)

Respondent(s)

For Petitioner(s):

Balachandran T
G.Arunsekaran
P.Kamesh

For Respondent(s):

Public Prosecutor

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 303(2) of the Bharatiya Nyaya Sanhita (BNS) Act, 2023 and Section 21(1) of Mines and Minerals (Development & Regulations) Act, 1957 in Crime No.887 of 2024, on the file of the respondent police, seeks anticipatory bail.



2. The case of the prosecution is that on 28.11.2024, around 5.15 P.M, a routine vehicle checkup was conducted near Vilambarur Village, Sri Makudappar Kovil by the Assistant Geologist, Kallakurichi. The petitioner was found to be involved in the illegal transport of 3.5 untis of gravel sand in a Tipper Lorry bearing Registration No.TN-88-L-1554. Hence, this case.

3. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. He further submits that, without prejudice to his contentions, the petitioner is willing to deposit a non-refundable amount of Rs.10,000/- to any charitable organization or association. Therefore, he prays for grant of anticipatory bail to the petitioner.

4. Learned Government Advocate (Crl. Side) appearing for the respondent Police opposed the granting of anticipatory bail to the petitioner, stating that the quantity of gravel sand involved in this case is 3.5 units and that the petitioner is also willing to abide by any strigent conditions. He further



submitted that the petitioner has no previous cases.

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5. Heard the learned counsel for the petitioner 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 quantity involved in this case and the vehicle and gravel sand were seized and also taking note of that, the petitioner has no previous cases, 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 bail, the petitioner may be directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) to the credit of District Legal Services Authority, Kallakurichi District, without prejudice to his rights and contentions before the trial Court.

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.10,000/- (Rupees Ten Thousand only) 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 petitioner is 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 *learned Judicial Magistrate*

No.I, Kallakurichi, Kallakurichi District, on condition that the petitioner

shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only)

with two sureties 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 shall report before the respondent police daily at 10.30 a.m., until further orders.

[b] the petitioner shall not tamper with evidence or witness either during the investigation or during the trial.

[c] the petitioner shall not abscond either during the investigation



or during the 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 was 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 petitioner thereafter absconds, a fresh FIR can be registered under Section 269 of BNS.

20-12-2024

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To

1.State Rep.By,
The Sub Inspector Of Police,
Kallakurichi Police Station, Kallakurichi District.
(Crime No.887 of 2024)



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A.D. JAGADISH CHANDIRA, J.

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