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Crl.O.P.No.31877 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-12-2024

CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

CRL OP NO. 31877 of 2024

KUMAR

S/o.Kandasamy, No.1/4, North Patayachi Street,
Mamundiagraharam, Mamundi, Thiruchengode,
Namakkal - 637 503.

Petitioner(s)

Vs

The State By Inspector Of Police,
Mallasamudram Police Station, Namakkal District.
Crime No.190 Of 2024

Respondent(s)

For Petitioner(s):

Saravanan A
K.Thirunavukkarasu
R.Madhubala

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 BNS in Crime No.190 of 2024, on the file of the respondent police, seeks anticipatory bail.



2. The case of the prosecution is that, while the respondent police were patrolling, they found that the accused persons have involved in illegal transportation of 2 units of gravel sand without valid license and permit in a vehicle bearing Registration No.TN-34-P-7577, upon enquiry, it is found that the petitioner herein, who is owner of the said vehicle had instigated the accused persons for the said offence. Hence, this case.

3. Learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the petitioner is the owner of the vehicle and without his knowledge, gravel sand was illegally transported in his vehicle by A1, who is the driver of his vehicle. He further submitted that the petitioner, without prejudice to his contentions, is prepared to deposit an amount of Rs.2,000/- towards 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 for granting of anticipatory bail to the petitioner by stating that, the quantity of gravel sand involved is 2 units and the petitioner is the owner of the vehicle, in which the gravel sand has been illegally transported and 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) 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 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 petitioner herein is the owner of the vehicle and without his knowledge the gravel sand has been transported in his vehicle and he has no previous case, 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.2,000/- (Rupees Two Thousand only) to the credit of District Legal Services Authority, Namakkal 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.2,000/- (Rupees Two Thousand only)** by way of Demand Draft/RTGS/NEFT to the credit of the **District Legal Services Authority, Namakkal 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 on which the order copy made ready, before the *learned Judicial Magistrate, Thiruchengode* 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



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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 investigation or trial;

[c] the petitioner 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 absconds, a fresh FIR can be registered under Section 269 of BNS.

20.12.2024

stn

A.D. JAGADISH CHANDIRA, J.

stn

To



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1. The State By Inspector Of Police,
Mallasamudram Police Station,
Namakkal District.
Crime No.190 Of 2024.

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