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Crl.O.P.No.243 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2025

CORAM

THE HON'BLE Mr. JUSTICE SUNDER MOHAN

Crl.O.P.No.243 of 2025

Arjunan

...Petitioner/Accused

Vs.

1.The Deputy Superintendent of Police
Erode, Erode District

2.State rep. by
Inspector of Police
Bangalapudur Police Station
Erode District
(Crime No.315 of 2024)

3.Nataraj

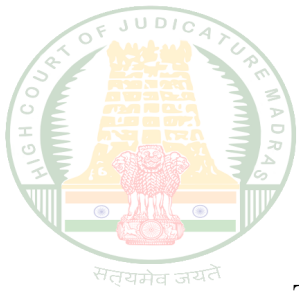
...Respondents

Criminal Original Petition filed under Section 482 of BNSS, 2023, to enlarge the petitioner on bail in the event of his arrest by the respondent police concerned in crime No.315 of 2024 on the file of the respondent police.

For Petitioner : Mr.M.R. Elavarasan

For RR1 and 2 : Mr. Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)

For R3 : Mr.S.Kathiravan
Legal Aid Counsel



ORDER

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The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 105, 303(2), 326, 125 of BNS, 2023, Section 3 of Explosive Substances Act, 1908, Section 9(b)(1)(a)(b) of the Indian Explosives Act, 1884, Section 3(3) and 4 of TNPPDL Act, 1992, Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957 altered to under Sections 105, 303(2), 326, 125 of BNS, 2023, Section 3 of Explosive Substances Act, 1908, Section 9(b)(1)(a)(b) of the Indian Explosives Act, 1884, Section 3(3) and 4 of TNPPDL Act, 1992, Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957 and Section 3(2)(v) of SC/ST (Prevention of Atrocities) Act, 1989, in Crime No.315 of 2024 on the file of the respondent police, seeks anticipatory bail.

2. It is the case of the prosecution that A-1 and A-2 are running a quarry without license, in which an explosion took place, caused death of two persons and later, the investigation revealed that the deceased belonged to SC community and hence, the case which was originally registered for the offences under Sections 105, 303(2), 326, 125 of BNS, 2023, Section 3 of Explosive Substances Act, 1908, Section 9(b)(1)(a)(b) of the Indian Explosives Act, 1884, Section 3(3) and 4 of TNPPDL Act, 1992, Section 21(1) of Mines and Minerals (Development



& Regulation) Act, 1957 was altered to under Sections 105, 303(2), 326, 125 of BNS, 2023, Section 3 of Explosive Substances Act, 1908, Section 9(b)(1)(a)(b) of the Indian Explosives Act, 1884, Section 3(3) and 4 of TNPPDL Act, 1992, Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957 and Section 3(2)(v) of SC/ST (Prevention of Atrocities) Act, 1989 (in short “SC/ST Act). Hence, the case.

3. Learned counsel for the petitioner would submit that the petitioner did not run the quarry; that he has been implicated only on the confession of the co-accused; that the petitioner is running a shop dealing with explosive substances with a valid license; and that, he has not committed any offence under the SC/ST Act and there is no necessity for custodial interrogation of the petitioner and hence, prayed to grant anticipatory bail to the petitioner.

4. Though the 3rd respondent/*de facto* complainant was served, none entered appearance on his behalf. Hence, this Court appointed Mr.S.Kathiravan, as legal aid counsel to represent the *de facto* complainant.

5. Learned Government Advocate (Criminal Side), appearing for the respondent police, reiterated the prosecution case and would submit that the



petitioner had supplied explosives to A-1 and A-2 knowing well that they did not have license to run the quarry and therefore, opposed the grant of anticipatory bail.

6. Heard the learned counsel for the parties and perused the materials available on record.

7. Admittedly, the petitioner was not running the quarry in which the explosion took place. The only material connecting the petitioner with the sale of explosives, is the confession of the co-accused. In any case, the offence under the SC/ST Act is not made out as against the petitioner. The Hon'ble Supreme Court in ***Prathvi Raj Chauhan Vs. Union of India and Others [(2020)4 SCC 727]*** had held that where the allegations do not attract the offence under SC/ST Act, petition for anticipatory bail is maintainable. Considering the nature of the allegations against the petitioner, this Court is of the view that custodial interrogation of the petitioner is not required for the purpose of investigation. In view of the same, the petitioner is entitled to anticipatory bail on certain conditions.



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8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen (15) days from the date on which the order copy was made ready, before the **learned Principal District & Sessions Judge (Special Court under SC&ST Atrocities Act), Erode**, on condition that 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] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhaar 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 abscond either during investigation or trial;

[d] the petitioner shall not tamper with evidence or witness 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



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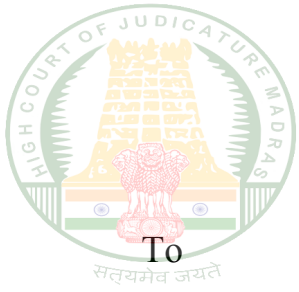
against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in ***P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]***;

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

9. Before parting, the Tamil Nadu State Legal Services Authority, High Court, Chennai, is directed to pay the necessary fee to Mr.S.Kathiravan, Legal Aid Counsel, at the earliest.

27.02.2025

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To

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1.Principal District & Sessions Judge
(Special Court under SC&ST Atrocities Act), Erode

2.The Member Secretary
Tamil Nadu State Legal Services Authority
High Court Buildings, Chennai

3.The Deputy Superintendent of Police
Erode, Erode District

4.The Inspector of Police
Bangalapudur Police Station
Erode District

5.The Public Prosecutor
High Court of Madras



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SUNDER MOHAN,J.

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