

In the Court of Vacation Sessions Judge, Kanniyakumari District at Nagercoil.

Present : Thiru B. Karthikeyan, B.L.,
Vacation Sessions Judge/Principal Sessions Judge,
Kanniyakumari at Nagercoil.

Wednesday, the 8th day of May, 2024.

CrI.M.P. No. 43/2024

(CNR.No.TNKK0V-000109-2024)

1. Arul Raj S/o. Asari (A1)

2. R. Ratheesh S/o. Rajendra Prasath (A2)

.. Petitioners

/Vs./

Sub Inspector of Police,

Nithiravilai Police Station,

Crime No.89/2024 of Nithiravilai Police Station,

Rep. by Public Prosecutor, Nagercoil.

.. Respondent

This petition is filed by Advocate Thiru N Chellappan, u/s 438 Cr.P.C.,
praying to grant anticipatory bail to the petitioners.

ORDER

Heard both side. Perused the petition.

The petitioners/accused alleged to have been committed the offence u/s
379 of IPC.

The case of the prosecution is that on 03.05.2024 at about 4.00 A.M.,
while the police party were on rounth at Nambali, they received a secret information
that JCB bearing Regn. No.TN 75 C 9105 and a Tipper Tempo bearing Regn. No.TN

74 AL 3618 were removing red sand from the property of one Babu with his permission. Hence the charge.

The learned counsel for the petitioners submitted that it is a false case and only for statistical purpose it has been registered and the petitioners are owner cum driver of the JCB and Tipper Tempo respectively and the vehicles were hired by the owner of the property to demolish a old building and no red sand was transported and the vehicles were seized and the investigation is almost over and the petitioners have not committed any offence as alleged by the prosecution and they are ready to abide by any condition and prayed for anticipatory bail to the petitioners.

The learned Public Prosecutor opposed the application and submitted that on 03.05.2024, these petitioners illegally excavated soil from the private land with JCB and loaded the soil in a tempo and A1 is the owner cum driver of the JCB and A2 is the owner cum driver of the tempo and the vehicles with contraband were seized and the investigation is not yet over and he has serious objection to grant anticipatory bail to the petitioners and the petition may be dismissed.

Considering the nature of the offences alleged to have been committed by the petitioners/accused and also considering the fact that the vehicles along with contraband was seized and the facts and circumstances of the case, this court is inclined to grant anticipatory bail to the petitioners/accused with conditions.

In the result, in the event of arrest or on their appearing before the court concerned the petitioners are ordered to be enlarged on anticipatory bail on their executing a bond for a sum of Rs.10,000/- with two sureties each for a likesum to the satisfaction of Judicial Magistrate No.II, Kuzhithurai subject to the following

conditions :-

1. The petitioners shall appear before the court concerned within 15 days from today without fail.
2. After release, the petitioners shall appear and sign before the respondent police daily at 10.00 A.M. until further orders.
3. The petitioners shall also make themselves available before the respondent as and when required.
4. The petitioners shall not tamper with the witnesses or in any manner interfere with or put obstacle to the smooth progress of investigation.
5. The petitioners shall not leave the jurisdictional police limit without prior permission.

If there is any violation of condition, the Investigation Officer is with in his discretion to approach the court of the learned Judicial Magistrate for cancellation of bail even though bail granted by the Sessions Court as per the ruling of the Hon'ble Supreme Court reported in **P.K.Shaji /Vs./ State of Kerala, (2005) AIR S.C.W. 5560.**

Pronounced by me in open court this the 8th day of May, 2024.

Vacation Sessions Judge.

To
The Judicial Magistrate No.II, Kuzhithurai. (through e-mode)
The Sub Inspector of Police, Nithiravilai Police Station.
(through court cell e-mode)
The counsel for the petitioners.