



CRL OP(MD). No.19623 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 13/11/2024

PRESENT

The Hon`ble Mr.Justice N.ANAND VENKATESH

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Jebaraj @ Jeyaraj

... Petitioner/Accused

Vs

The State of Tamil Nadu,
Rep By, The Inspector of Police,
Tirunelveli Taluk Police Station,
Tirunelveli District.
Cr.No.569/2024.

... Respondent/Complainant

For Petitioner : Mr.G.Karuppasamypandiyan

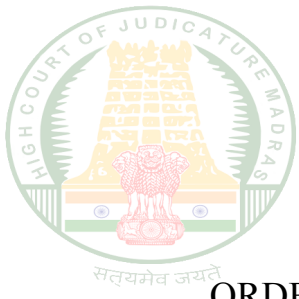
For Respondent : Mr.B.Thanga Aravindh,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.482 of BNSS

PRAYER :-

For Anticipatory Bail in Cr.No.569/2024 on the file of the respondent police.

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ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence under Section 303(2) of BNS Act in Crime No.569 of 2024 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant was running a Vulcanizing shop. On 22.10.2024, when he came to the shop in the morning, old tyres worth about Rs.3,000/- were found missing. On verifying the CCTV footage it was found that the petitioner had taken those tyres.

3.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent.

4.In the instant case, the FIR has been registered under Section 303(2) of BNS Act, 2023 (hereinafter referred to as 'BNS Act').

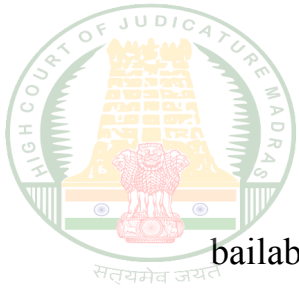


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The admitted case of the prosecution is that three lorry tyres worth about Rs.3,000/- was stolen. The proviso to Subsection 2 of Section 303 of BNS Act provides that in a case of theft, where the value of theft property is less than Rs.5,000/- and person is convicted for the first time, the punishment that is provided is community service. For the value of property less than Rs.5,000, it is non-cognizable and bailable.

5.The specific case of prosecution as stated supra is that the value of the stolen property is Rs.3,000/-. Hence, it will come within the scope of non-cognizable offense. If that is so, as per Section 174 of BNSS Act (hereinafter referred to as 'New Procedure Code') the FIR can be registered only after getting an appropriate order from the learned Magistrate, who is having power to try such a case. In the absence of the same, the very registration of FIR is illegal. The law on the issue is too well settled.

6.In view of the above, the FIR that has been registered against the petitioner is not sustainable in law. Technically speaking, this anticipatory bail petition is not maintainable, since the offence is



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bailable. However, this Court by exercising its jurisdiction under Section 482 of Cr.P.C is inclined to interfere with the FIR, since the very registration of FIR for a non-cognizable offence, without getting appropriate orders of learned Magistrate is illegal.

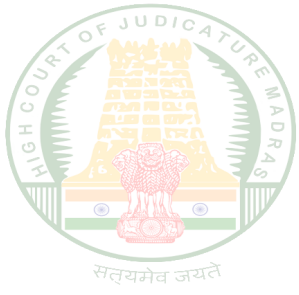
7.In the light of the above discussion, the FIR in Cr.No.569 of 2024 on the file of the respondent Police is hereby quashed and this Criminal Original Petition stands allowed.

(N A V J)
13.11.2024

PNM

TO

1. The Judicial Magistrate No.III, Tirunelveli
2. The Inspector of Police,
Tirunelveli Taluk Police Station,
Tirunelveli District. Cr.No.569/2024..
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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N.ANAND VENKATESH,J

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ORDER
IN
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Date : 13/11/2024