

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.6652 of 2017

ORDER:

1 This Criminal Petition is filed, by the petitioners/A.3, A.6 to A.8, under Section 438 Cr.P.C., seeking anticipatory bail in Cr.No.38 of 2017 on the file of the Station House Officer, Palasamudram Police Station registered for the offences punishable under Sections 447, 379 of IPC and Sections 4 and 21 (4) of Mines and Minerals (Development and Regulation) Act, 1957.

2 The learned counsel for the petitioners submitted that the de-facto complainant has no right to lodge the complaint under the Mines and Minerals (Development and Regulation) Act. He further submitted that the petitioners have nothing to do with the transportation of the sand.

3 *Per contra*, the learned Additional Public Prosecutor submitted that the petitioners along with others are transporting the sand from the State of Andhra Pradesh to the State of Tamilnadu without any licence. He further submitted that this is not a fit case to grant anticipatory bail to the petitioners in view of the pendency of the investigation.

4 It is the case of the prosecution that on 18.06.2017 on receiving credible information the de-facto complainant along with other officials proceeded to the spot and intercepted tractor bearing No.AP 27 AA 0806 and an unnumbered trailer, tractor bearing No.AP 03 AU 9678 and its trailer bearing No.AP 03 AY 0064 and an empty tractor and trailer bearing No.AP 27 AA 0807. The trailers were loaded with sand. Thereupon the de-facto complainant arrested the accused Nos.1 and 2. It is the further case of the prosecution that the petitioners along with others were transporting sand from Neeva river, Chittoor district to the State of Tamilnadu without valid licence or permit.

5 The petitioners filed CrI.M.P.No.1783 of 2017 on the file of the Court of the I Additional District & Sessions Judge, Chittoor and the same was

dismissed on 27.7.2017 on the ground that the petitioners are highly influential persons in the society.

6 A perusal of the record reveals that the petitioners are father and brother of the accused No.1. It is needless to say that any person can set the criminal law into motion. Whether the de-facto complainant is competent to lodge the complaint under Sections 4 and 21 (4) of the Mines and Minerals (Development and Regulation) Act will be decided during the course of investigation. The fact remains that the tractors and trailers were seized while they were loaded with sand. Admittedly the petitioners are not having any valid licence to transport the sand from the State of Andhra Pradesh to the State of Tamilnadu. A perusal of the record prima facie reveals the role played by the petitioners in commission of the alleged offence. As rightly pointed out by the learned Additional Public Prosecutor if the petitioners are granted anticipatory bail, the possibility of the petitioners tampering with the prosecution evidence cannot be ruled out.

7 Taking into consideration the gravity of the offence alleged to have been committed by the petitioners, this court is of the considered view that this is not a fit case to grant anticipatory bail to the petitioners.

8 In the result, the petition is dismissed.

T.SUNIL CHOWDARY, J

Date: August 29, 2017

Kvsn