



CrI.O.P.No.5326 of 2022

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Dr.G.JAYACHANDRAN, J.

The petitioners/A1&A2, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 379 & 511 of IPC r/w Section 21(i) of Mines and Minerals Act in Crime No.116 of 2022, seek anticipatory bail.

2.According to the prosecution, on 27.02.2022, the Revenue Inspector along with the defacto complainant based on the secret information, went near Panchayat Union School at Chinnavadagampatti and intercepted tipper lorry bearing Reg.No.TN 18 J 0012. On seeing them, two persons abundant the lorry and fled away from the scene of occurrence. On enquiry, the defacto complainant came to know that they are the owner and driver of the vehicle. The vehicle was seized and brought to the respondent police for necessary action.

3.The learned counsel appearing for the petitioners submitted that the gravel sand found in the tipper lorry was not transported by them.



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4.From the submissions made by the learned Government Advocate (crl.side) and the records, it indicates that these petitioners are the owner and driver of the tipper lorry respectively, in which two units of gravel sand was found transported illegally.

5.Considering the quantity of the sand and its value, this Court is inclined to grant anticipatory bail to the petitioners.

6.Accordingly, the petitioners are ordered to be released on anticipatory bail in the event of arrest or on their appearance, within a period of seven days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate, Omalur, Salem District**, on condition that **each of the petitioners shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand Only)**, with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned, failing which the anticipatory bail shall stand cancelled and on further condition that:

(a)each of petitioners shall deposit a sum of **Rs.30,000/- (Rupees Thirty Thousand only)** before the concerned District Collector's Fund as



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non-refundable deposit, without prejudice to their defence before the trial court and submit proof of payment of the said amount before the aforesaid learned Judicial Magistrate, who after perusing the receipt/acknowledgment shall accept the sureties furnished by the petitioners. After receipt of the above said amount, the same has to be deposited by the concerned District Collector to the credit of the District Mines and Minerals Foundation Trust as non-refundable deposit;

(b)the above said condition shall be complied within a period of 10 days from today.

(c)the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(d)the petitioners shall report before the Investigation Officer as and when required for interrogation.

(e)the petitioners shall not tamper with evidence or witness either during investigation or trial;

(f)the petitioners shall not abscond either during investigation or trial;

(g)on breach of any of the aforesaid



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conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]*; and;

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

It is made clear that the grant of anticipatory bail to the petitioners will not stand in the way of the Authorities concerned to initiate the confiscation proceeding in respect of the tipper lorry which is involved in the crime.

07.03.2022

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