



Crl.O.P.No.14485 of 2022

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SATHI KUMAR SUKUMARA KURUP,J.

The learned Counsel for the Petitioner already submitted his arguments on 30.06.2022. On the request of the learned Government Advocate (Crl.side) to file counter and to advance reply arguments, the matter was posted on 05.07.2022.

2. Thereafter, when the case came up for hearing on 05.07.2022, the learned Government Advocate (Crl.side) sought time to furnish counter and to file reply to the arguments of the learned Counsel for the Petitioner. Hence, the matter was ordered to be posted on 07.07.2022 and on 07.07.2022, it was adjourned to 11.07.2022.

3. Today, when the case came up for hearing, the learned Government Advocate (Crl.side) vehemently objected to grant Anticipatory Bail to the Petitioner on the ground that the Petitioner was granted Mining lease only up to the year 2019 whereas, after expiry of the licence, he is alleged to have continued mining work. Hence, it is



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considered as illegal mining. Further, the learned Government Advocate (Crl.side) submits that if the Petitioner is granted Anticipatory Bail, there is every possibility of the Petitioner absconding and causing hindrance to investigation. He would further submit that investigation is pending and the Investigation Officer seeks custodial interrogation of the Petitioner herein.

4. The learned Counsel for the Petitioner by way of rejoinder submitted that he has furnished additional typed set of papers, wherein, the copy of the lease deed has been furnished and a copy of the order passed by the National Green Tribunal, Southern Bench have been enclosed.

5. The learned Counsel for the Petitioner disputes the interim report itself and also submitted that the National Green Tribunal Southern Bench had passed remarks and has not satisfied with the interim report of the joint Committee. Further, the National Green Tribunal directed the Joint Committee to file an additional report as a



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final report. In the light of the above, the learned Counsel for the Petitioner submits that he had not extended the lease period in the affidavit. Only based on the direction of the National Green Tribunal Southern Bench, the Joint Committee was constituted. However, the interim report of the Joint Committee was not accepted by the National Green Southern Bench.

6. The learned Counsel for the Petitioner submitted that based on the complaint given by the Village Administrative Officer, the FIR was registered and in the complaint itself, it is mentioned about the inspection carried out by the Official team consisting of the Assistant Director of Geology and Mines and the Revenue Officials of Salem Collector. Based on their instructions, the complaint was lodged by the Village Administrative Officer. Therefore, the learned Counsel for the Petitioner requests for considering the Anticipatory Bail. Considering the age of the Petitioner, status of the Petitioner as a licensee which was granted by the Geology and Mining Department of Tamil Nadu. It is his further submission that only because of the order passed in O.A.No.211 of 2021,



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WEB COM this complaint had been taken and FIR was registered. He would further submit that he is ready to co-operate with the Authorities concerned.

7. The learned Government Advocate (Crl.side) raised vehement objections stating that the Petitioner has caused loss to the State Government to the tune of Rs.5,00,00,000/- and thereby, the Investigation Officer seeks custodial interrogation.

8. Considering the nature of the allegations and the fact that the Petitioner was granted license by the Geology and Mining Department of Tamil Nadu, the objection of the learned Government Advocate is found unacceptable and unreasonable. The further objection of the learned Government Advocate that the Petitioner is likely to abscond also cannot be accepted.

9. Therefore, the claim of the Investigating Officer who needs custodial interrogation of the senior citizen, who satisfied the joint committee which was constituted at the instance of the National Green



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10. Hence, considering the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the Petitioner with certain conditions.

11. Accordingly, the Petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy is made ready, before the learned Chief Metropolitan Magistrate, Egmore, Chennai, on condition that the Petitioner shall execute a bond for a sum of **Rs.2,00,000/- (Rupees Two Lakhs only) with two sureties out of which, one of the sureties shall be a blood surety**, 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 learned Magistrate concerned, failing which, the Petition for anticipatory bail shall stand dismissed automatically without further reference to Court and on further condition that:



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[a] the Petitioner and the sureties shall affix their photographs and Left Thumb Impressions in the surety bond and the Magistrate concerned may obtain a copy of their proof of identity like Aadhar card or Voter identity card or driving licence or Bank pass Book.

[b] the Petitioner shall appear before the Respondent/Police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

[c] the Petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the Petitioner shall not abscond 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 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 229A IPC.

11.07.2022

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Today the case is listed under the caption "for being mentioned".

2. The learned counsel for the petitioner submitted that an inadvertent error occurred at the time of grant of Anticipatory Bail on 11.07.2022. In line 4 of Paragraph No.11, it is mentioned as the *learned Chief Metropolitan Magistrate, Egmore, Chennai* instead of *learned Judicial Magistrate - V, Salem*. Hence, it would suffice if this Court directs the Registry to carry out the necessary corrections in the order copy and re-issue fresh order copy.

3.Satisfied with the above submissions made by the learned counsel for the petitioner Paragraph No.11 of the order dated 11.07.2022 shall stand replaced with the following:-

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*11. Accordingly, the Petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy is made ready, before the learned Judicial Magistrate - V, Salem, on condition that the Petitioner shall execute a bond for a sum of **Rs.2,00,000/- (Rupees Two Lakhs only) with two sureties out of which, one of the sureties shall be a blood surety**, 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 learned Magistrate concerned, failing which, the Petition for anticipatory bail shall stand dismissed automatically without further reference to Court and on further condition that:*

4. In view of the same, further time of 15 days is granted to the Petitioner to execute the bond, from the date of receipt of copy of the same.

05.08.2022

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