

**Crl.O.P.No.15420 of 2022**

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G.K.ILANTHIRAIYAN, J.

Today, the matter is listed under the caption "for being mentioned".

2. It is brought to the notice of this Court that some error has been crept in the order dated 04.07.2022 in Crl.O.P.No.15420 of 2022. Accordingly, the entire order shall be replaced as follows:

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 120 B, 447, 379 of IPC and Section 21 (1) r/w 4 (1) of the Mines and Minerals (Regulation and Development) Act, 1957 in Crime No.02 of 2015, seeks anticipatory bail.

2. The case of the prosecution is that the District Collector, Salem has issued orders in Na.Ka. No.288/2014/Mining – A dated 31.07.2015 permitting Mr.Karthik/A1 to quarry 42,500 cubic metre or 7,083 lorry load of gravel from the village lake of Manathal. The allegation against the petitioner is that an approved quarrying area was 50 metres away from the public installation but the quarrying was done within one metre of public road and 20 metres from railway track. Further, he dig pit upto 10 feet depth instead of one metre, which is near the High Tension Electric line and also the quarrying was done beyond the permitted area. Hence, the complaint.



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3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Further, he submitted that the co-accused was granted anticipatory bail. Therefore, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that A1 was granted anticipatory bail. He would further submitted that though originally the offence has been registered for the offence under Sections 120 B, 447, 379 of IPC and Section 21 (1) r/w 4 (1) of the Mines and Minerals (Regulation and Development) Act, 1957 now it has been altered to Sections 120 B, 447, 379, 467 and 148 of IPC and Section 21 (1) r/w 4 (1) of the Mines and Minerals (Regulation and Development) Act, 1957 However, he vehemently opposed to grant anticipatory bail to the petitioner.

5. It is seen that, there are totally three accused, in which, the petitioner is arrayed as A2. He is a railway contractor and was entrusted with the order of construction of Broad-guage railway line measuring 10428.00 cm from Omalur Railway gate to Mecheri Line. It is further stated that the first accused was granted lease to remove gravel from Manathal Tank in Survey Nos.1/1(Part), 1/2(Part), 24/1(Part) and 24/2(Part),



Omalar, Salem District. It is further seen that the entire gravel which had been alleged to have removed for railway work by the petitioner herein are purchased from the first accused.

6. Thereafter, the District Collector by a proceedings dated 15.11.2018 in ROC.522/2016/MINES-A/ had levied a sum of Rs.1,50,21,200/- in respect of Survey Nos.1/1(Part), 1/2(Part) and in respect of 24/1(Part) and 24/2(Part), levied a sum of Rs.59,09,200/- and therefore a total sum of Rs.2,09,30,400/- has been levied.

7. Considering the fact that the petitioner, without prejudice to his rights, is ready to deposit a sum of Rs.15 lakhs to the credit of Na.Ka.3402-2015-Tdated 20.10.2016 before the District Collector, Salem, this Court is inclined to grant anticipatory bail to the petitioner.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the **IV Judicial Magistrate, Salem District**, on condition that the petitioner shall execute a separate bond for a sum of **Rs.10,000/- (Rupees ten thousand only)** with two sureties, one among the surety shall be a blood relative of the accused, 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 and on further condition that:

[a] the petitioner shall deposit a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs Only) to the credit of Na.Ka.3402-2015-T dated 20.10.2016 before the District Collector, Salem within a period of four weeks from the date of receipt of copy of this order. The proof of such deposit shall be produced at the time of executing the bond

[b] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[c] 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.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.



[f] 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]**.

[g] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

Registry is directed to carry out the necessary corrections in the Order dated 04.07.2022 in CrI.O.P.No.15420 of 2022 and issue fresh order copy.

15.07.2022

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