



CrI.O.P.No.16909 of 2022

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**G.K.ILANTHIRAIYAN, J.**

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 379, 430 of IPC read with Section 21(1) of Mines and Minerals (Development & Regulation) Act in Crime No.279 of 2022 on the file of the respondent police, seeks anticipatory bail.

2.It is the case of the prosecution that the petitioners are alleged to have transported 1 1/2 units of river sand.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have not committed any such offence as alleged by the prosecution. Hence, he prays to grant anticipatory bail to the petitioners.

4.The learned Additional Public Prosecutor appearing for the respondent submitted that the quantity of sand involved is 1 1/2 unit of



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river sand. He further submitted that there is no previous case pending against the first petitioner and there are five previous cases pending against the second petitioner. Hence, he vehemently opposed to grant anticipatory bail to the petitioners.

5. Considering the bad antecedents of the second petitioner, this Court is not inclined to grant anticipatory bail to the second petitioner. However, with respect to the first petitioner, this Court is inclined to grant anticipatory bail to the first petitioner with the following conditions:

6. In view of the rehabilitation undertaken under the Tamil Nadu District Mineral Foundation Rules, 2017, and in order to curb the illegal sand mining activities, this Court is of the opinion that the **first petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as non refundable deposit to the credit of the concerned District Mineral Foundation Trust**, without prejudice to his rights and contentions before the trial Court.



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6. Merely, because the first petitioner has deposited the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

7. Accordingly, the first petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as non refundable deposit to the credit of the concerned District Mineral Foundation Trust and on such deposit the first 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 made ready, before the **learned Judicial Magistrate, No.2, Nagapattinam** on condition that the first petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties 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 first petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may



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obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the first petitioner shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as non refundable deposit to the credit of the concerned District Mineral Foundation Trust.

[c] the first petitioner shall report before the respondent police daily at 10.30 for a period of two weeks and thereafter as and when required for interrogation.

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

[e] the first 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 first petitioner in accordance with law as if the conditions have been imposed and the first 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 absconds, a fresh FIR can be registered under Section 229A IPC.

**20.07.2022**

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