



Crl.O.P.No.21881 of 2022

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A.D.JAGADISH CHANDIRA,J.

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 430, 379 of IPC, in Crime No. 443 of 2022, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner had illegally transported 3 bags of river sand each weighing 25kg by using his Two Wheeler without any valid licence. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would further submit that he had purchased 3 bags of sand from a dealer for personal use and at that the time of interception he was unable to produce the bill. He would submit that he has no previous case against him and without prejudice to his contentions, the petitioner is prepared to deposit an amount of Rs.5,000/- towards any charitable organization or association. Therefore, he prays for grant of anticipatory bail to the petitioner.



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4. The learned Government Advocate (crl.side) would submit that the quantity of river sand involved is 3 bags. He would further submit that the petitioner has no previous case pending against him. However, he vehemently opposed to grant anticipatory bail to the petitioner.

5. It is the case of the petitioner that the quantity is minimum intended for his personal use and that he has no previous case, however in order to curb the illegal sand mining activities and taking into consideration the voluntary submission made by the petitioner offering to deposit a considerable amount to any charitable organization or association, this Court is of the opinion that the petitioner may be directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) to credit of “The Tamil Nadu Advocate Clerks Association, High Court of Madras, Indian Bank, Madras High Court Branch, Account No:484026006, with IFSC Code – IDIB000M157” without prejudice to his rights and contentions before the trial Court.

6. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.



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7. Accordingly, the petitioner is directed to deposit a sum of **Rs.5,000/- (Rupees Five Thousand only)** to the credit of the **“The Tamil Nadu Advocate Clerks Association, High Court of Madras, Indian Bank, Madras High Court Branch, Account No:484026006, with IFSC Code – IDIB000M157”** and on such deposit 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 made ready, before the **learned Judicial Magistrate No II Chengalpattu** on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five 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 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.



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[b] the petitioner shall report before the respondent police every day at 10.30 am for a period of one week and thereafter as and when required for interrogation.

[c] Merely, because the petitioner deposits 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.

[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.

14.09.2022

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