



Crl.O.P.No.22115 of 2022

A.D.JAGADISH CHANDIRA, J.,

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The petitioner, who apprehends arrest for the alleged offences under Sections 379 and 430 IPC in Crime No.140 of 2022 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner transported 1/2 unit of sand without any proper bill or license. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner had transported 1/2 unit of sand for his personal use in the passenger auto and it was not intended for any commercial purposes and he has been falsely implicated and a case has been registered against him. The petitioner was unable to produce any bill at the time of occurrence. Hence, he prays for grant of anticipatory bail to the petitioner. On instruction, he would further submit that the petitioner is prepared to donate/pay some considerable amount to any charitable organization or association without prejudice to his defence and prayed for grant of anticipatory bail.

4.The learned Government Advocate (crl. side) appearing for the respondent police submitted that the petitioner transported 1/2 unit of sand without any proper bill or license. He further submitted that no previous case is pending against the petitioner.



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5. In order to curb the illegal mining activities and taking into consideration the voluntary submission made by the petitioner offering to donate/pay considerable amount to any charitable organization or association, this Court is of the opinion that the petitioner may be directed to donate/pay a sum of Rs.5,000/- (Rupees Five Thousand only) to **“District Mines and Minerals Foundation Trust”** concerned without prejudice to his rights and contentions before the trial Court.

6. 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.

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

[a] the petitioner is directed to deposit a sum of Rs.5,000/- (Rupees Ten Thousand only) as non-refundable deposit either through RTGS/NEFT or in cash in favour of "The District Mines and Minerals Foundation Trust" concerned within fifteen (15) days from the date of receipt of a copy of this order. Thereafter, the petitioner is directed to be released on bail in the event of his arrest or on his appearance and on production of proof of payment of the above amount

[b] the 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 Judicial Magistrate, Cheyyur, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:-

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

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

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

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

[g] 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 are 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]**.

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

8. With the above directions, this Criminal Original Petition is ordered.

14.09.2022

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