



Crl.O.P.No.22218 of 2022

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A.D.JAGADISH CHANDIRA, J.

The petitioners who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 379 and 430 of IPC in Crime No.237 of 2022, seek anticipatory bail.

2.The case of the prosecution is that the petitioners are alleged to have transported one unit of river sand illegally. Hence the complaint.

3.The learned counsel for the petitioners would submit that the petitioners are innocent and that a case of sand theft has been fabricated against them. He would further submit that the 2nd petitioner's brother had committed suicide on the abetment of one Karthik who is the Sub Inspector of Police, Melpadi Police Station and a First Information Report was also registered in Crime No.74 of 2022 on 11.04.2022. Since the investigation was not done properly, the mother of the 2nd petitioner has filed an application seeking for transfer of investigation from the Sub Inspector of Police, Melpadi Police Station to the file of the CBCID and thereby, the Police got antagonized with the family of the petitioner.



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Thereby, they have filed a false complaint against the petitioners. He would further submit that the 2nd petitioner is owning a harvesting machine and on the previous day, he along with one Ajaykumar was engaged in harvesting the crops in Villapakkam Village, near Arcot. Thereafter, on coming to know about the false complaint filed against the petitioners, the said Ajaykumar sent a representation to the Superintendent of Police, Vellore District about the false case. The owner of the land one Jayakumar has also sent a representation to the Superintendent of Police, Vellore District. Further, the first petitioner is working in a Bakery in Wayanad, Kerala and the owner of the Bakery has also sent a representation to the Superintendent of Police, Vellore District. He would submit that though normally this Court will not grant anticipatory bail in theft of river sand cases, it is a classic case of false implication. He would further submit that there is no previous case of similar nature against the petitioners and hence, he seeks for grant of anticipatory bail to the petitioners.

4.The learned Government Advocate (crl.side) appearing for



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the respondent Police would submit that there is no previous case of sand theft against the petitioners.

5.This Court in a batch of applications in Crl.O.P.No.13334 of 2020 dated 03.09.2020 had dismissed the anticipatory bail applications expressing the opinion that the offenders despite several orders passed by various Benches of this Court regarding illegal sand mining and knowing fully well about the evil consequences affecting the environment and society at large and the implications thereon are indulging in the offences of illegal quarrying/mining, theft and smuggling of sand and minerals and that finding that the case comes under the category of cases of large magnitude affecting and impacting livelihood of a very large number of people knowingly and unknowingly, had dismissed the earlier applications. Subsequently, the order of this Court in Crl.O.P.No.13334 of 2020 and Batch etc. dated 03.09.2020 was clarified by the Hon'ble Supreme Court and the Hon'ble Supreme Court had not agreed with the broad sweep of the observation made by this Court in Paragraph 27 of the order in Crl.O.P.No.13334 of 2020 and connected matters decided on 03.09.2020 and had directed that the role assigned to the person would



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have to be considered on case to case basis.

6.Taking into consideration the facts of the case and the submissions made by the learned Counsel and also of the fact that there seems to be enmity between the petitioners' family and the local police and that there is no previous case against the petitioners, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

7.Accordingly, the petitioners are 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 learned Judicial Magistrate, Katpadi, Vellore on condition that each of the petitioners shall execute separate bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties 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



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further condition that:

[a] the petitioners 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.

[b] the petitioners shall report before the Judicial Magistrate, Katpadi, Vellore on all working days at 10.30 a.m., for a period of two weeks and thereafter, as and when required for interrogation.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[d] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as

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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;

22.09.2022

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