



WEB COPY



CrI.O.P.No. 23921 of 2022

A.D.JAGADISH CHANDIRA, J.

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 379 & 430 of IPC r/w Section 21(1) of Mines and Minerals (Development & Regulation) Act, in Crime No.170 of 2022, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that the petitioners have transported $\frac{1}{4}$ unit of sand by bullock cart without any valid permission. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have not committed any such offence as alleged by the prosecution. The petitioners have purchased sand from a dealer for their personal use and they were not having bills at the time of inspection. For non production of bills, the respondent has registered the case. Hence, he prays for grant of anticipatory bail to the petitioners.



WEB COPY

4. The learned Government Advocate (crl.side) appearing for the respondent police would submit that the petitioners have transported $\frac{1}{4}$ unit of sand by bullock cart without any valid permission. Hence, he opposed to grant anticipatory bail to the petitioners.

5. The petitioners are alleged to have taken sand for their personal use. At the time of inspection, they were unable to produce the bills. They do not have any previous case and the quantity is also less.

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 petitioners are directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) each 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.

7. Merely, because the petitioners have deposited the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.



8. Taking note of the facts and circumstances, this Court is inclined

to grant anticipatory bail to the petitioners with certain conditions:-

[a] the petitioners shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) each as non refundable deposit to the credit of the concerned District Mineral Foundation Trust within fifteen (15) days from the date of receipt of a copy of this order. Thereafter, the petitioners are directed to be released on bail in the event of their arrest or on their appearance and on production of proof of payment of the above amount

[b] the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each 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, Gudiyatham**, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:-

[c] the petitioners 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 petitioners shall report before the respondent police on every day at 10.30 am until further orders.



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

[f] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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.

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

30.09.2022

msm



WEB COPY



5

A.D.JAGADISH CHANDIRA, J.

msm

CrI.O.P.No. 23921 of 2022

30.09.2022