



Crl.O.P.No.24105 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 Section 379 of IPC in Crime No.136 of 2022 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that while the *de-facto* complainant who is the Village Administrative Officer was on patrol duty, petitioners have transported illegal sand each 2 bags in vehicles bearing Registration Nos.TN 88 X 3911 and TN 49 AU 4620. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would further submit that they have purchased 4 bags of sand from a dealer for personal use and at that the time of interception they were unable to produce the bill. He would submit that without prejudice to his contentions, the petitioners are prepared to deposit an



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amount of Rs.5,000/- towards any charitable organization or association.

Therefore, he prays for grant of anticipatory bail to the petitioners.

4. The learned Government Advocate (Crl.Side) would submit that the petitioners have transported illegal sand each 2 bags in vehicles bearing Registration Nos.TN 88 X 3911 and TN 49 AU 4620. He would further submit that there are four cases pending against the first petitioner and insofar as the second petitioner is concerned there is no previous case against him. However, he vehemently opposed to grant anticipatory bail to the petitioners.

5. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.side) for the respondent and perused the materials available on record.

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 second



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petitioner is directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) as non refundable deposit to the credit of the concerned District Mineral Foundation Trust, without prejudice to their rights and contentions before the trial Court.

7. Merely, because the second 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.

8. Taking into consideration the facts and circumstances of the case, and the previous cases against the first petitioner, this Court is not inclined to grant anticipatory bail to the first petitioner and insofar as the second petitioner is concerned, this Court is inclined to grant anticipatory bail with certain conditions.

9. Accordingly, as far as the first petitioner is concerned, this Criminal Original Petition is dismissed and as far as the second petitioner is concerned the second petitioner shall make a non refundable deposit of **Rs.5,000/- (Rupees Five Thousand only)** by way of Demand



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Draft/RTGS/NEFT to the credit of the **District Mineral Foundation Trust concerned**, without prejudice to their rights and contentions before the trial Court, on such deposit and production of proof, the second petitioner is ordered to be released on bail 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, Paramathi, Namakkal District** on condition that the second 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 second 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.

[b] the second petitioner shall report before the respondent police **every day at 10.30 am until further orders.**

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



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[d] the second 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 second petitioner in accordance with law as if the conditions have been imposed and the second 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.

11.10.2022

gd/mpl



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