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Crl.O.P.No.25092 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 379 of IPC read with Section 21(1) of Mines and Minerals (Development and Regulation) Act in Crime No.446 of 2021, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that the petitioner had illegally transported **3 bags of river sand** in his two wheeler without any valid permission. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that he had purchased 3 bags of river 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.1,000/- towards any charitable



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organization or association. Therefore, he prays for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl.side) appearing for the respondent submitted that the petitioner had transported 3 bags of river sand in a bullock cart without any valid license. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5.This Court in a batch of applications in Crl.O.P.No.13334 of 2020 dated 03.09.2020 had dismissed the earlier application expressing the opinion that the offenders despite several orders passed by various Benches of this Court regarding illegal sand mining and knowingly 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



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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 have to be considered on case to case basis.

6. 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.1,000/- (Rupees Thousand only) to credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions before the trial Court.



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

8. Accordingly, the petitioner shall make a non refundable deposit of **Rs.1,000/- (Rupees Thousand only)** by way of Demand Draft/RTGS/NEFT to the credit of the **District Mineral Foundation Trust concerned**, without prejudice to his rights and contentions before the trial Court, on such deposit and production of proof, the petitioner is 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, No.I, Jayamkondan**, 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:



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[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.

[b] the petitioner shall report before the respondent police **everyday at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.**

[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 229 A IPC.

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