



Crl.O.P.No.25765 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.428 of 2022 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that based on the complaint given by the de facto complainant/Sub-Inspector of Police, Gudiyatham Town Police Station, the respondent police found that the petitioners had transported 5 bags of river sand each 50 kgs, totally 250 kgs of river sand by using two wheeler without obtaining permission from the Government. 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 had purchased



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5 bags of river sand from a dealer for personal use and at 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 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 (Criminal Side) appearing for the respondent submitted that the petitioners had transported 5 bags of river sand each 50 kgs, totally 250 kgs of river sand, by using two wheeler without any valid bill. Hence, he vehemently opposed to grant anticipatory bail to the petitioners.

5. This Court in a batch of petitions 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 knowing fully well about the evil consequences affecting the environment and society at large and the implications thereon are indulging in the offences of



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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 etc batch 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 the 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 petitioners that the quantity is minimum intended for their personal use and that they had no previous case, however in order to curb the illegal sand mining activities and taking into consideration the voluntary submission made by the petitioners offering to deposit a considerable amount to any charitable organization or association, this Court is of the opinion that the petitioners may be



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

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

8. Accordingly, the each of the petitioners shall make a non-refundable deposit of **Rs.5,000/- (Rupees Five Thousand only)** by way of Demand 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 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, Gudiyatham** on condition that each of the petitioners shall execute a bond for a sum of **Rs.25,000/- (Rupees Twenty Five**



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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 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 respondent police everyday at 10.30 a.m., until further orders.

[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 laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.



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nsa/arb

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

20.10.2022

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