



Crl.O.P.No.28365 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 and 430 of IPC r/w Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957, in Crime No.266 of 2022, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner is alleged to have transported 1/4 unit of odai sand illegally by using a vehicle. Hence the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has not been committed any such offence as alleged by the prosecution and he has been falsely implicated in this case. He would further submit that the petitioner was earlier granted anticipatory bail by this Court in Crl.O.P.No.18108 of 2022 on 03.08.2022 with a condition that the petitioner shall deposit a sum of Rs.10,000/- as non-refundable deposit to the credit of concerned District Mineral Foundation Trust. However, he was unable to arrange



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funds to deposit the said amount in time and the order has got lapsed.

Now, the petitioner is ready and willing to comply with the same condition. Therefore, he filed this present petition and prays for grant of anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent Police would submit that the quantity of odai sand involved is 1/4 unit. He would further submit that the petitioner has one previous case pending against him. He would further submit that the petitioner was earlier granted anticipatory bail by this Court in CrI.O.P.No.18108 of 2022 vide Order dated 03.08.2022, however he failed to execute the sureties. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5.In reply, the learned counsel for the petitioner would submit that the petitioner is also ready to deposit an amount of Rs.1,000/- to any welfare scheme of the Government and prays for grant of anticipatory bail to the petitioner.



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6.Taking into consideration the facts of the case and the submissions made by the learned counsel and also taking note of the fact that the petitioner has come forward to deposit an amount of Rs.1,000/- to any welfare scheme of the Government, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7.Accordingly, the petitioner shall make a non refundable deposit of **Rs.10,000/- (Rupees Ten Thousand only)** by way of Demand Draft/RTGS/NEFT to the credit of the **District Mineral Foundation Trust concerned** and also deposit a sum of Rs.1000/- (Rupees One Thousand only) as non-refundable deposit to the credit of **Taluk Legal Services Authority, attached to the concerned Court**, and on such deposits and on receipt of proof of payments, the petitioner is ordered to be released on bail in the event of arrest 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 No.II, Panrutti, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees



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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 further condition that:

[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 make a non refundable deposit of **Rs.10,000/- (Rupees Ten Thousand only)** by way of Demand Draft/RTGS/NEFT to the credit of the **District Mineral Foundation Trust concerned** and also deposit a sum of Rs.1000/-as non-refundable deposit to the credit of **Taluk Legal Services Authority, attached to the concerned Court.**

[c]the petitioner shall report before the respondent Police daily at 10.30 a.m., until further orders.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[e] the petitioner shall not abscond either during investigation or trial;



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[f] 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]**;

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC;

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