



Crl.O.P.No.5214 of 2023

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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 Section 21(1) of the MMRD Act r/w 379 of IPC, in Crime No.223 of 2021 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner alleged to have transported 3 bags of sand in a two wheeler bearing Registration No.TN 61 Q 1866 without valid license. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution. He would further submit that the petitioner has earlier obtained an anticipatory bail before this Court in Crl.O.P.No.10796 of 2022 dated 06.05.2022 with the conditions to deposit a sum of Rs.5,000/- to the Advocate Clerks Welfare Association, Ariyalur District. However, since the petitioner was unable to raise the



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funds and the time granted by this Court to execute the sureties got lapsed. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl.side) appearing for the respondent submitted that the petitioner has transported 3 bags of sand in a two wheeler bearing Registration No.TN 61 Q 1866, without valid license. He further submitted that there is no previous case pending as against the petitioner. The petitioner earlier obtained anticipatory bail before this Court in Crl.O.P.No.10796 of 2022 dated 06.05.2022. However, he vehemently opposed to grant anticipatory bail to the petitioner.

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



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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 petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) as non refundable deposit to the credit of the Advocate Clerks Welfare Association Fund, Ariyalur District, without prejudice to their rights and contentions before the trial Court.

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



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9. Accordingly, the each of 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 **Advocate Clerks Welfare Association Fund, Ariyalur District**, without prejudice to their 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 his appearance, within a period of fifteen days from the date on which the order copy made ready, before the **learned Judicial Magistrate No.I, Jayamkondam**, on condition that the petitioner shall execute a separate bond for a sum of Rs.25,000/- (Rupees 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.



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[b] the petitioner shall deposit a sum of **Rs.10,000/- (Rupees Ten Thousand only)** as non-refundable deposit to the credit of the **Advocate Clerks Welfare Association Fund, Ariylaur District** within a period of fifteen (15) days from the date of receipt of a copy of this order.

[c] the petitioner shall report before the respondent police everyday 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.

[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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