



Crl.O.P.No.5455 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 Sections 379 & 430 of IPC in Crime No.66 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on 22.02.2023, based on the complaint given by Thasildar, it is found that the petitioner is an agriculturist and he had illegally transported savudu sand by using a tipper lorry bearing Registration No.TN 02 Q 3674, for the purpose of filling up his another land in Survey No.97/2A, in respect of Patta No.2788 at Periya Mullaivoyil Village, without obtaining permission from the government. 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. Hence, he prays to grant anticipatory bail to the petitioner.



Crl.O.P.No.5455 of 2023

4. The learned Government Advocate (Criminal Side) for the respondent would submit that the petitioner had transported savudu sand by using a tipper lorry bearing Registration No.TN 02 Q 3674, without obtaining any permission from the Government. He would further submit that there is no previous case pending as against the petitioner. However, he vehemently opposed to grant anticipatory bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (criminal 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 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 his rights and contentions before the trial Court.



Crl.O.P.No.5455 of 2023

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7. Merely, because the 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, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

9. Accordingly, the petitioner 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 his rights and contentions before the trial Court, on such deposit and production of proof, the petitioner is ordered to be released on bail on his executing 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 **learned Judicial Magistrate at Ponneri – II**, and on further



Crl.O.P.No.5455 of 2023

conditions that:

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[a] 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 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** 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 daily at 10.30 a.m., until further orders;

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

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

[f] On breach of any of the aforesaid conditions,



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Crl.O.P.No.5455 of 2023

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 abscond, a fresh FIR can be registered under Section 229A IPC.

13.03.2023

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Crl.O.P.No.5455 of 2023

A.D.JAGADISH CHANDIRA, J.

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Crl.O.P.No.5455 of 2023

13.03.2023

Page 6 of 6