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Crl.O.P.No.6431 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 379 of IPC read with Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.737 of 2022, seeks anticipatory bail.

2. The case of the prosecution as per the de-facto complainant M.Suresh Kumar, Assistant Geologist, Zonal Squad, Geology and Mines, Salem Zone, is that the petitioner had committed theft of 1 Tonne of Magnesite in a Swaraj Mazda Truck bearing Registration No.TN-74-AU-4410, without obtaining any permission or license from the Tamil Nadu State Government. Hence the complaint.

3. The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He further submitted that the petitioner has no previous case against him



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and he is ready and willing to furnish solvent sureties and abide by any stringent condition that may be imposed on him. He also submitted that without prejudice, the petitioner is prepared to deposit an amount of Rs.5,000/- towards any charitable organization or association. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Criminal Side) appearing for the respondent police submitted that the petitioner had committed theft of 1 Tonne of Magnesite in a Swaraj Mazda Truck bearing Reg.No.TN-74-AU-4410, without any valid bill/license. He further submitted that there is no previous case pending as against the petitioner. However, he vehemently opposed to grant anticipatory bail to the petitioner.

5. Heard both sides and perused the materials available on record including the FIR.



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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.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. However, it is made clear that merely, because the petitioner deposits 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.

7. Taking into consideration the facts and circumstances of the case and the submissions made by the counsel on either sides, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.



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8. 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** and on such deposit and on receipt of proof of payment, 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 District Principal Sessions Court, Salem**, on condition that **the petitioner shall execute a 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 report before the respondent Police every day at 10.30 a.m., until further orders.

[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 229A IPC;

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