



Crl.O.P.No.8002 of 2023

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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 Section 379 of IPC r/w.21(1) and 21(4) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.157 of 2023, seek anticipatory bail.

2.The case of the prosecution is that the petitioner along with other accused have transported 4 units of red sand illegally by using Tipper Lorry. Hence the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that he has no previous case against him and without prejudice to his contentions, the petitioner is prepared to deposit an amount of Rs.25,000/- towards any charitable organization or association. Therefore, he prays for grant of anticipatory bail to the petitioner.



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4.The learned Government Advocate (CrI.side) appearing for the respondent Police would submit that the quantity of red sand involved is 4 units. He would further submit that the petitioner has no previous case pending against him. However, he vehemently opposed to grant anticipatory bail to the petitioner.

5.Taking into consideration the facts of the case and the submissions made by the learned Counsel and also of the fact that there is no previous case pending against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

6.The petitioner is ordered to be released on bail on condition to make a non refundable deposit of **Rs.25,000/- (Rupees Twenty 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



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period of fifteen days from the date on which the order copy made ready, before the learned **Judicial Magistrate, Palacode**, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten 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 report before the respondent Police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

[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;



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[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;

18.04.2023

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