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Crl.O.P.No.9689 of 2023

K.KUMARESH BABU, J.

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 430, 379 of IPC r/w. Section 21(1) of the Mines and Minerals (Development & Regulation Act) 1957, in Crime No.162 of 2023 on the file of the respondent police, seeks anticipatory bail.

2.It is the case of the prosecution that the petitioner is alleged to have transported ½ Unit of sand illegally.

3. The learned counsel appearing for the petitioner would submit that the petitioner is no way connected to the offence as stated. Hence, he prays to grant anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent submitted that the quantity of sand involved is ½ unit of sand which was being transported by the petitioner, by way of Bullock Card, without any valid licence. He further submitted that there is no previous case pending against the petitioner. However, he vehemently opposed to grant anticipatory bail to the petitioner.

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5.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 concerned District Mineral Foundation Trust, without prejudice to his rights and contentions before the trial Court.

6.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.

7.Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, 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 concerned District Mineral Foundation Trust and on such deposit 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,**

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Kancheepuram on condition that the petitioner shall execute a bond for a sum of **Rs.10,000/- (Rupees ten thousand only) with two sureties** each 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 deposit a sum of Rs.10,000/-(Rupees Ten Thousand only) as non refundable deposit to the credit of the concerned District Mineral Foundation Trust.

[c] the petitioner shall report before the respondent police every monday at 10.30 am for a period of two weeks and thereafter as and when required for interrogation.

[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.

17.05.2023

(Sha/Vrc)

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K.KUMARESH BABU, J.

(Sha/Vrc)

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