



Crl.O.P.No.10851, 10857, 10867 of 2023

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K.KUMARESH BABU, J.

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 379 of I.P.C r/w Section 21(1) of Mines and Minerals of (Development and Regulation) Act, 1957 in Crime No.54 of 2023, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that during their routine check up, the petitioners and other persons were found in illegal transportation of nine units of Jalli using six lorries (each containing 18 Cubmic Meter), without any valid permit or license from the Government. Hence the complaint.

3. The learned counsel for the petitioners submitted that the petitioners in Crl.O.P.Nos.10851 and 10867 of 2023 are drivers and the petitioner in Crl.O.P.No.10857 of 2023 is owner of the vehicles and they are innocent persons, however, a false case has been foisted against him. He further submitted that, without prejudice to the rights and contentions,



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the petitioner is prepared to deposit a substantial amount towards any Welfare Scheme run by the Government as may be directed by this Court.

Therefore, he prayed for grant of anticipatory bail to the petitioners.

4. The learned Government Advocate (CrI.Side) appearing for the respondent Police would submit that the petitioners and others had illegally transported 9 units of Jalli, using six Tipper lorries, without any valid permit from the Government. He further submitted that, no previous case is pending against the petitioners. However, he vehemently opposed to grant anticipatory bail to the petitioners.

5. It is to be noted that, the above case in Crime No.54/2023 has been registered against the drivers and owners of six Tipper lorries, which were used to transport Nine units Jally, illegally, and the petitioners herein are the drivers and owner of the respective vehicle.

6. In order to curb the illegal sand mining activities and taking into consideration the voluntary submission made by the petitioners offering to deposit a considerable amount to any Welfare Scheme run by the Government, this Court is of the opinion that the petitioners may be directed to jointly deposit **a sum of Rs.90,000/- (Rupees ninety**



Thousand only) to the credit of the concerned District Mineral Foundation Trust, without prejudice to their rights and the contentions before the trial Court.

7. Having regard to the nature of allegations made against the petitioners, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8. Accordingly, the petitioners jointly shall make a non-refundable deposit of **Rs.90,000/- (Rupees Ninety Thousand only)**, by way of Demand Draft/RTGS/NEFT to the credit of the **District Mineral Foundation Trust concerned**, without prejudice to their rights and contentions before the trial Court, on such deposit and production of proof, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the **learned District Munsif cum Judicial Magistrate, Madukkarai**, on condition that the petitioners shall execute a bond for a sum of **Rs.10,000/- (Rupees ten Thousand only) each**, 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



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satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners 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 petitioners shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter, report before the respondent police as and when required for interrogation.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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 abscond, a fresh FIR can be registered under Section 229A IPC.



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9. It is made clear that if the petitioners involves in similar type of offence in future, the anticipatory bail granted to him shall stands cancelled automatically.

17.05.2023

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