



Crl.O.P.No.11098 of 2023

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K.KUMARESH BABU, J.

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The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 379 & 430 of I.P.C., in Crime No.101 of 2023, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that during routine check up, the petitioners were found in illegal possession of 20 units of sand in their vehicles without any valid permit or license from the Government. Hence the complaint.

3. The learned counsel for the petitioners submitted that the petitioners are an innocent persons and they have falsely implicated in this case. However, without prejudice to their rights and contentions, the petitioners are 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.



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4. The learned Government Advocate (CrI.Side) appearing for the respondent Police would submit that the petitioners had illegally transported 20 units of sand without any valid permit from the Government by using five Lorries. Therefore, he vehemently opposed to grant anticipatory bail to the petitioners.

5. 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 deposit **a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) to the credit of the concerned District Mineral Foundation Trust,** without prejudice to their rights and the contentions before the trial Court.

6. 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.



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7. Accordingly, the petitioners shall make a non-refundable deposit of **Rs.2,00,000/- (Rupees Two Lakhs 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 Court, Walajah-I**, on condition that the petitioners shall execute a separate 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 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.



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[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.

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

17.05.2023

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