



Crl.O.P.No.11184 of 2023

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K.KUMARESH BABU, J.

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The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 379 of I.P.C., r/w 21(1) Mines & Minerals (Development Regulation) Act, 1957, in Crime No.127 of 2023, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that during their routine check up, the petitioner was found in illegal transportation of 4 units of stones in his vehicle without any valid permit or license from the Government. Hence the complaint.

3. The learned counsel for the petitioner submitted that the petitioner is an innocent person and a false case has been foisted against him. However, without prejudice to his rights and contentions, 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 petitioner.



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4. The learned Government Advocate (Crl.Side) appearing for the respondent Police would submit that the petitioner had illegally transported 4 units of stones without any valid permit from the Government by using a Tipper Lorry. He further submitted that there is no previous case against the petitioner. Therefore, he vehemently opposed to grant anticipatory bail to the petitioner.

5. In order to curb the illegal sand mining activities and taking into consideration the voluntary submission made by the petitioner offering to deposit a considerable amount to any Welfare Scheme run by the Government, this Court is of the opinion that the petitioner may be directed to deposit **a sum of Rs.40,000/- (Rupees Forty Thousand Only) to the credit of the concerned District Mineral Foundation Trust,** without prejudice to his rights and the contentions before the trial Court.

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



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7. Accordingly, the petitioner shall make a non-refundable deposit of **Rs.40,000/- (Rupees Forty Thousand Only)**, by way of Demand Draft/RTGS/NEFT to the credit of the **District Mineral Foundation Trust concerned**, without prejudice to his rights and contentions before the trial Court, on such deposit and production of proof, 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 District Munsif-Cum-Judicial Magistrate, Madukkari**, 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 report before the respondent police



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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 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

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