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Crl.O.P.No.12834 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 IPC and Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957, in Crime No.123 of 2023 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners were alleged to have transported 4 units of Chakkai Stones without valid permit. Hence the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution. He would further submit that at the time of inspection the driver was unable to furnish the permit copy and hence the case has been registered. Hence, he prays to grant anticipatory bail to the petitioners.



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4. The learned Government Advocate (Crl.side) appearing for the respondent submitted that the petitioners have transported 4 units of Chakkai Stones without valid permit. He would further submit that the 1st petitioner is the driver of the vehicle and the 2nd petitioner is the owner of the vehicle. He further submitted that there is no previous case pending as against the petitioners. However, he vehemently opposed to grant anticipatory bail to the petitioners.

5. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.side) for the respondent and perused the materials available on record.

6. 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 petitioners are directed to jointly deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as non refundable deposit to the credit of



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

7. Merely, because the petitioners have deposited the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

8. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

9. Accordingly, the petitioners shall jointly make a non refundable deposit of **Rs.40,000/- (Rs.20,000/- each) (Rupees Forty 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



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from the date on which the order copy made ready, before the **learned Judicial Magistrate Court, Kancheepuram**, on condition that the each of the petitioners shall execute a separate bond for a sum of Rs.25,000/- (Rupees Twenty Five 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.

[b] the petitioners shall deposit a sum of **Rs.40,000/- (Rs.20,000/- each) (Rupees Forty Thousand only)** by way of Demand Draft/RTGS/NEFT to the credit of the **District Mineral Foundation Trust concerned**, failing which anticipatory bail granted by this Court shall stands automatically cancelled.

[c] the petitioners shall report before the respondent police everyday at 10.30 a.m., until further orders.



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

[e] the petitioners shall not abscond either during investigation or trial.

[f] 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]**.

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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A.D.JAGADISH CHANDIRA, J.

The Criminal Original Petition is listed today under the caption “for being mentioned”.

2. Learned counsel appearing for the petitioner submitted that this Court, by an order dated 13.06.2023, has granted anticipatory bail to the petitioner. However, there appears to be an ambiguity with regard to the amount to be deposited to the District Mineral Foundation Trust and thus prayed for indulgence.

3. In view of the above, this Court is of the opinion that the petitioners are the driver and the owner of the vehicle respectively and the seized stones are nothing but chakkai stones, which is not valued for more than Rs.10,000/-. Therefore, the amount to be deposited to the credit of the District Mineral Foundation Trust shall be modified as Rs.5000/- for the first petitioner and Rs.10,000/- for the second petitioner. Thereby, the paragraphs 6, 9 and 9(b) of the order shall be



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read as follows:

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"6.In order to curb the illegal sand mining activities, this Court is of the opinion that the first petitioner shall deposit a sum of Rs.5,000/- and the second petitioner shall deposit a sum of Rs.10,000/- as non refundable deposit to the credit of the concerned District Mineral Foundation Trust, without prejudice to their rights and contentions before the trial Court.

9.Accordingly, the first petitioner shall make a non refundable deposit of Rs.5,000/- (Rupees Five Thousand only) and the second petitioner shall make a non refundable deposit of Rs.10,000/- (Rupees Ten 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 daysf from the date on which the order copy made ready, before the learned Judicial Magistrate, Kancheepuram, on condition that each of the petitioners shall execute a separate bond for a



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sum of Rs.25,000/- (Rupees Twenty Five 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:

9(b) the first petitioner shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) and the second petitioner shall deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) by way of Demand Draft/RTGS/NEFT to the credit of the District Mineral Foundation Trust concerned, failing which the anticipatory bail granted by this Court shall stands automatically cancelled."

The other conditions imposed by this Court in Crl.O.P.No.12834 of 2023 on 13.06.2023 shall remain unaltered.

4. Registry is directed to issue a fresh order copy.

04.07.2023

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