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Crl.O.P.No.12846 of 2023

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A.D.JAGADISH CHANDIRA, J.

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 379 and 430 of IPC r/w Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957, in Crime No.114 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioners were alleged to have transported 3 units of Lake sand without valid permit. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has 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 petitioner.



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4. The learned Government Advocate (Crl.side) appearing for the respondent submitted that the petitioner has transported 3 units of Lake sand without valid permit. He further submitted that there is no previous case pending as against the petitioner. However, he vehemently opposed to grant anticipatory bail to the petitioner.

5. Heard the learned counsel for the petitioner 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 the concerned District Mineral Foundation Trust, without prejudice to their rights and contentions before the trial Court.



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7. Merely, because the petitioner is 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 petitioner with certain conditions.

9. Accordingly, the petitioner shall make a non refundable deposit of **Rs.20,000/- (Rupees Twenty 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 their appearance, within a period of fifteen days from the date on which the order copy made ready, before the **learned Judicial Magistrate – II, Tiruvannamalai**, on condition that the petitioner shall



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execute a separate bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties 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.20,000/- (Rupees Twenty 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 petitioner shall report before the respondent police everyday at 10.30 a.m., until further orders.

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



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[e] the petitioner 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 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.

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