

Crl.O.P.No.13137 of 2023

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 read with Section 21(5) of Mines and Minerals Act, in Crime No.310 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on 26.05.2023, the petitioner was found illegally transporting 1/4 unit of river sand by using Bullock Cart. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case for statistical purpose. However, without prejudice to his rights and contentions, the petitioner is prepared to deposit a substantial amount towards any charitable organization or association as may be directed by this Court and he prayed for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Criminal Side) appearing for the respondent vehemently opposed for grant of anticipatory bail to the petitioner stating that the petitioner had illegally transported 1/4 unit of river sand without any valid permit from the Government by using a Bullock Cart. However, he would submit that there is no previous case against the petitioner.

5. Heard both sides and perused the materials available on record.

6. This Court in a batch of petitions in Crl.O.P.No.13334 of 2020 dated 03.09.2020 had dismissed the earlier application expressing the opinion that the offenders despite several orders passed by various Benches of this Court regarding illegal sand mining and knowing fully well about the evil consequences affecting the environment and society at large and the implications thereon are indulging in the offences of illegal quarrying/mining, theft and smuggling of sand and minerals and that finding that the case comes under the category of cases of large

magnitude affecting and impacting livelihood of a very large number of people knowingly and unknowingly, had dismissed the earlier applications. Subsequently, the order of this Court in Crl.O.P.No.13334 of 2020 and etc batch dated 03.09.2020 was clarified by the Hon'ble Supreme Court and the Hon'ble Supreme Court had not agreed with the broad sweep of the observation made by this Court in Paragraph 27 of the order in Crl.O.P.No.13334 of 2020 and the connected matters decided on 03.09.2020 and had directed that the role assigned to the person would have to be considered on case to case basis.

6. It is the case of the petitioner that he has not committed any offence as alleged by the prosecution. However 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 charitable organization or association, this Court is of the opinion that the petitioner may be directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) to the credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and the contentions before the trial Court.

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

8. Accordingly, the petitioner is directed to make a non-refundable deposit of **Rs.5,000/- (Rupees Five 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 and 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 Judicial Magistrate, Cheyyar**, 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 everyday at 10.30 a.m., until further orders.

[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.

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