



Crl.O.P.No.13742 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, 430 of IPC r/w Section 21(1) of Mines and Minerals (Development and Regulation) Act 1957 in Crime No. 354 of 2023, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner is alleged to have transported 1/4 unit of sand without any valid license by using bullock cart. Hence the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and that a case of sand theft has been fabricated against him. However, on instructions he would submit that without prejudice, the petitioner is prepared to deposit a substantial amount towards any charitable organization or association as may be directed by this Court. Hence, he prayed to grant anticipatory bail to the petitioner.



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4. The learned Government Advocate (Criminal Side) for the respondent would submit that accused had illegally transported 1/4 unit of sand by using bullock cart. He would further submit that there is no previous case pending as against the petitioner. However, he vehemently opposed to grant anticipatory bail to the petitioner.

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

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 petitioner shall be directed to deposit a sum of **Rs.10,000/-**, as non refundable deposit to the credit of the concerned **District Mineral Foundation Trust**, without prejudice to his rights and contentions before the trial Court. However, it is made clear that merely, because the petitioner deposits the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.



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7. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel on either sides, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, **the petitioner shall pay a sum of Rs.10,000/- (Rupees Ten Thousand Only)** as non-refundable deposit by way of Demand Draft/RTGS/NEFT to the credit of the **District Mineral Foundation Trust concerned** and on such deposit and on receipt of proof of payments, 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, Vaniyambodi** on condition that **the petitioner shall execute a 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:



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[a] the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/trial Court 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 every day at 10.30 a.m., for a period of two weeks and thereafter every Saturday at 10.30 am., 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] 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, as laid down by the Hon'ble Supreme Court in ***P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]***; and;



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[f] if the petitioner herein thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

9. Accordingly, the Criminal Original Petition is ordered.

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