



Crl.O.P.No.14881 of 2023

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G.CHANDRASEKHARAN. J.

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences under Section 379 IPC in Crime No.150 of 2023 on the file of the respondent police, seek anticipatory bail.

2. Learned counsel for the petitioners submitted that, petitioners are falsely implicated in this case in Crime No.150 of 2023 for the offences under Sections 379 of IPC. It is his further submission that, 1st petitioner is the JCB operator in vehicle bearing No.TN 31 CZ 3064 and 2nd petitioner is the driver of tipper lorry bearing No.TN 72 CB 3546. The owner had been arrested and released on bail. Petitioners are innocent. Apprehending arrest at the hands of the respondent, this petition is filed.

3. Learned Government Advocate (Criminal side), opposes this petition, on the ground that, accused in this case had illegally transported 2 units of sand from Seerapalli Eri on 21.06.2023. There are totally three accused in this case. 1st accused is the owner and he was arrested and released on bail. He further submitted that, there is no previous case of



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similar in nature pending against the petitioners. Thus, he prayed for dismissal of this petition.

4. In view of the submission made by the learned counsel for the parties that, vehicle involved in illegal taking of eri sand and the sand had been recovered and that the 1st accused is released on bail and that the material part of the investigation might have been over by this time, this Court is of the view that, custodial interrogation of the petitioners is not necessary and the petitioners are 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 Court, Rasipuram** on condition that the petitioners 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 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 without prejudice to their defence shall deposit a non-refundable sum of Rs.10,000/-, by way of Demand Draft to the Cancer Institute (WIA), East Canal Bank Road, Adyar, Chennai and that the receipt of such payment shall be produced before the concerned Magistrate at the time of executing the bond; It is made clear that merely, because the petitioners deposit 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.

[c] the petitioners shall report before the respondent police everyday at 10.00 a.m. and 5.00 p.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.

12.07.2023

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