



Crl.O.P.No.16168 of 2023

Crl.O.P.No.16168 of 2023

G.CHANDRASEKHARAN. J.

The petitioners, Thirupathi @ Thirupathy and Vengadesan, who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 379 & 430 IPC r/w 21 (1) of Mines and Minerals Act, in Crime No.122 of 2021, on the file of the respondent police, seek anticipatory bail.

2. It is the submission of the learned counsel for the petitioners that petitioners are charged for the offences under Sections 379 & 430 IPC r/w 21 (1) of Mines and Minerals Act, for illegal transportation of ¼ unit of river sand in a Lorry bearing registration No.KA 05 D 0133, without any valid permit. Hence the case.

3.In response, the learned Government Advocate (Crl.side) submitted that on 07.05.2021, at about 11.40 a.m., when the respondent police were in their routine check up, near Naravandhampatti, they found a Lorry bearing registration No.KA 05 D 0133, with ¼ unit of river sand, without any valid permit. Therefore, case was registered against the



CrI.O.P.No.16168 of 2023

petitioners under Sections 379 & 430 IPC r/w 21 (1) of Mines and Minerals Act. He further submitted that the first petitioner has three previous cases of similar nature pending against him and the second petitioner has no previous case.

4.Considered the rival submissions and perused the records.

5.In view of the submission that first petitioner has three previous cases pending against him, this Court is not inclined to grant anticipatory bail to the first petitioner. Considering the fact that the Lorry and river sand involved in this case are recovered and that the second petitioner has no previous case, this Court is of the view that custodial interrogation of the second petitioner is not necessary. Second 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 **concerned District Mineral Foundation Trust**, without prejudice to his rights and contentions before the trial Court, on such deposit and production of proof, second petitioner is ordered to be released on bail in



Crl.O.P.No.16168 of 2023

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 No.II, Tirupattur**, on condition that 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:

[a] the second 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 second petitioner shall report before the respondent police everyday at 10.30 a.m. until further orders.

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



Crl.O.P.No.16168 of 2023

[d] the second 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 second petitioner in accordance with law as if the conditions have been imposed and the second 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 absconds, a fresh FIR can be registered under Section 229A IPC.

6. Accordingly, this Criminal Original Petition is allowed as against the second petitioner and dismissed as against the first petitioner.

24.07.2023

sli



WEB COPY



Crl.O.P.No.16168 of 2023

G.CHANDRASEKHARAN. J.

sli

Crl.O.P.No.16168 of 2023

24.07.2023