



Crl.O.P.No.18581 of 2023

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RMT.TEEKAA RAMAN, J.

The petitioner, who apprehends arrest at the hands of the respondent police for the offence punishable under Section 379 of IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No. 420 of 2023, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner is alleged to have transported $\frac{1}{4}$ (quarter) unit of river sand illegally in four bags by using two wheeler. 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. He would further submit that he has no previous case against him and without prejudice to his contentions, the petitioner is prepared to deposit an amount of Rs.5,000/- towards any charitable organization or association. Therefore, he prays for grant of anticipatory bail to the petitioner.



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4. The learned Government Advocate (Crl. Side) appearing for the respondent Police would submit that the quantity of river sand involved is 1/4 unit. He would further submit that the petitioner has no previous case pending against him. However, he vehemently opposed to grant anticipatory bail to the petitioner.

5. This Court in a batch of applications in Crl.O.P.No.13334 of 2020 dated 03.09.2020 had expressed 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 anticipatory bail applications. Subsequently, the order of this Court in Crl.O.P.No.13334 of 2020 and Batch etc. dated 03.09.2020



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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 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 the quantity is minimum intended for his personal use and that he has no previous case, 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 credit of the concerned District Mineral Foundation Trust, without prejudice to his rights and contentions before the trial Court.

7. Taking into consideration the facts of the case and the submissions made by the learned Counsel and also of the fact that there



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is no previous case pending against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

8.Accordingly, the petitioner shall 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** and on such deposit and on receipt of proof of payment, 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, Nannilam**, on condition that the petitioner shall execute a 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:



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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 may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall 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.**

[c]the petitioner shall report before the respondent Police daily at 10.30 a.m., until further orders.

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

[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



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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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