



Crl.O.P.No.19310 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 Sections 379 and 430 of IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.838 of 2021 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner is alleged to have transported 1/2 unit of river sand, without having any valid license. Hence the complaint.

3. The learned counsel for the petitioner submitted that this is the second application for anticipatory bail filed by the petitioner and the petitioner was earlier granted anticipatory bail by this Court in Crl.O.P.No.32479 of 2022 vide Order dated 28.12.2022. However, due to personal reasons, he was unable to furnish the sureties and thereby, the earlier order has got lapsed and the present anticipatory bail has been filed.



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4.The learned Government Advocate (Crl.side) appearing for the respondent submitted that the petitioner has illegally transported ½ unit of river sand, without obtaining any permission from the Government. He would further submit that no previous case is pending against the petitioner. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5. At this juncture, the learned counsel for the petitioner submitted that the petitioner, without prejudice to his rights and contentions before the trial Court, is ready and willing to deposit a sum of Rs.5,000/- to the credit of "**District Mineral Foundation Trust concerned**". Hence, he prayed for grant of anticipatory bail to the petitioner.

6.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) for the respondent and perused the materials available on record.



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7.On considering the voluntary submission made by the learned counsel for the petitioner, the petitioner is directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) to the credit of "**District Mineral Foundation Trust concerned**", without prejudice to his rights and contentions before the trial Court.

8.Merely, because the petitioner has deposited 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.

9.Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and also taking note of the fact that the petitioner has have come forward to deposit an amount of Rs.5,000/- to the credit of "**District Mineral Foundation Trust concerned**", this Court is inclined to grant bail to the petitioner with certain conditions.

10.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**



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Trust concerned, without prejudice to his rights and contentions before the trial Court, 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 No.II, Villupuram**, 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



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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 absconds, a fresh FIR can be registered under Section 229A IPC.

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