



Crl.O.P. No.23606 of 2024

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P.DHANABAL.J.,

The petitioners apprehend arrest for the alleged offences under Sections 303 & 326(a) of BNS and 21(1) of Mines and Minerals (Development and Regulations) Act in Crime No.700 of 2024, on the file of the respondent police seek anticipatory bail.

2.The case of the prosecution is that the petitioners were illegally transported two units of river sand without having any valid license or permit. Hence the case.

3. The learned counsel for the petitioners would contend that these petitioners are innocent persons and they have not indulged in any illegal activities as alleged by the prosecution and they have been falsely implicated in this case by the respondent police. Hence, he seeks anticipatory bail to the petitioners.



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4. The learned Government Advocate (Criminal Side) would submit that the petitioners were illegally transported two units of river sand without having any valid license or permit. The 1st accused is having five previous cases for the similar kind of offences, as far as the 2nd petitioner is concerned, he has no any previous cases. However, the learned Government Advocate (Criminal Side) vehemently opposed to grant anticipatory bail to the petitioners.

5. Heard both side and perused the materials available on record.

6. Considering the rival submissions on either side, considering the nature of offence and considering that the 1st petitioner is having five previous cases for the similar kind of offences, this Court **is not inclined to grant anticipatory bail to the 1st petitioner**, the 2nd petitioner has no previous cases and also considering the nature of offences and other aspects and this court **is inclined to grant anticipatory bail to the 2nd petitioner alone**, subject to the following conditions:



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7. Accordingly, the 2nd petitioner is ordered to be released on anticipatory 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, Arni** on condition that the 2nd 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 learned Magistrate concerned and on further condition that:

[a] the 2nd petitioner shall report before the respondent police on every Saturday at 10.00a.m. for the period of four weeks;

[b] the 2nd petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

[c] the 2nd petitioner shall not leave India without the prior permission of the Court.

[d] the 2nd petitioner shall not abscond either during investigation or trial.



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[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the 2nd petitioner in accordance with law as if the conditions have been imposed and the 2nd 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 269 B.N.S.2023.

26.09.2024

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