



Crl.O.P.No.28054 of 2024

A.D.JAGADISH CHANDIRA, J.

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The petitioner, who apprehends arrest for the alleged offences under Section 303(2) and 326(a) of BNS in Crime No.234 of 2024, on the file of the respondent police seeks anticipatory bail.

2. The case of the prosecution is that the petitioner with other accused was illegally transporting 1 unit of sand in tractor. Hence, the complaint.

3. The learned counsel appearing for the petitioner submits that the petitioner is an innocent person and he has not committed any such offence as alleged by the prosecution. The petitioner is falsely implicated in this case. He would also submit that the petitioner has been granted due permission from the Government for taking sand and also submit that the co-accused had been granted anticipatory bail. The learned counsel, on instructions, further submits that without prejudice to his contentions, the petitioner is prepared to deposit an amount of Rs.5,000/- towards any charitable organization or association. Hence, he prays for grant of anticipatory bail to the petitioner.



4. The learned Government Advocate (Criminal Side) appearing for the respondent police while opposing for grant of anticipatory bail to the petitioner submitted that the petitioner along with other accused illegally transported 1 unit of sand in tractor and no previous case is pending against the petitioner.

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

6. In respect of grant or refusal of anticipatory bail to the persons indulging in illegal sand mining, smuggling and theft of sand and minerals, the Apex Court in ***S.Mohamed Shahul Hameed Vs. State rep. by the Inspector of Police (Special Leave to Appeal (Crl.)No.6029 of 2020 dated 11.12.2020***), while expressing disagreement with the sweep observation made by this Court on the aspect of continuous misuse of discretionary power by the offenders and the enforcers as well in an organised manner, has clarified that in consideration of anticipatory bail, the role assigned to a person would have to be considered.



7. Taking into consideration the facts and circumstances of the case and that there is no previous case pending against the petitioner and considering the nature of offences charged against the petitioner. Also considering the fact that the co-accused has been granted anticipatory bail, and also considering that the petitioner is having valid permission to transport sand, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8.It is made clear that merely because the petitioner is depositing the amount, it would not amount that the petitioner is admitting his guilt in the criminal case and such amount is being paid without prejudice to the right of the petitioner.

9. Accordingly, the petitioner shall made a non-refundable deposit of Rs.10,000/- (Rupees Ten Thousand only) by way of Demand Draft/ RTGS/ NEFT to the credit of the **District Legal Services Authority, Vellore District**, 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/her appearance, within a period of fifteen (15) days from the date of receipt of a copy of this order before the Judicial Magistrate, Katpadi 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 and on further condition that:

[a] the petitioner shall report before the respondent Police on every Saturday at 10.30 a.m, for a period of four weeks.

[b] the petitioner shall not abscond either during investigating or trial.

[c] the petitioner shall not abscond either during investigation or trial.

[d] 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]**.

[e] If the petitioners thereafter absconds, a fresh FIR can be registered under Section 269 B.N.S.

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