



Crl.O.P.No.28146 of 2024

SUNDER MOHAN,J.

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The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 303(1) and 326 of BNS, 2023, in Crime No.397 of 2024, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that while the respondents were on regular patrol duty, they found a Tipper lorry which was driven by the second petitioner and when they checked the vehicle, they found 4 units of river sand which was illegally transported from Andhra Pradesh to Katpadi. Hence, the case.

3.The learned counsel for the petitioners would submit that the 1st petitioner is the driver and the 2nd petitioner is the cleaner of the vehicle and on instructions of their owner, they were transporting the sand for construction purpose and were not using it for commercial purpose and that in any case they are first time offenders even according to the prosecution and that the custodial interrogation is not required for investigation. Hence, he prays for grant of anticipatory bail.



4.The learned Government Advocate (Crl. Side) submitted that the 1st petitioner is the owner of the vehicle and the 2nd petitioner is the driver of the vehicle and that they transported 4 units of river sand illegally from Andhra Pradesh which was found by the respondents. Hence, he vehemently opposed to grant anticipatory bail.

5.At this juncture, the learned counsel for the petitioners submitted that the petitioners are prepared to donate/pay some considerable amount to any charitable organization or association without prejudice to their defence and prayed for grant of anticipatory bail.

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

7.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 sweeping



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.

8.Considering the allegations and the fact that the material has been seized by the respondents and further interrogation of the petitioners are not required for investigation, this Court is inclined to grant anticipatory bail to the petitioners. However, in order to curb illegal sand mining activities and taking into consideration the voluntary submission made by the petitioners offering to deposit a considerable amount to any charitable organization or association, this Court is of the opinion that as one of the conditions for grant of anticipatory bail, the petitioners may be directed to deposit a sum of Rs.20,000/- (Rupees Twenty Thousand only) to the credit of District Legal Services Authority, Vellore District, without prejudice to their rights and contentions before the trial Court.

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



10. Accordingly, the petitioners shall make a non refundable deposit of **Rs.20,000/- (Rupees Twenty Thousand only)** by way of Demand Draft/RTGS/NEFT to the credit of the **District Legal Services Authority, Vellore**, and on such deposit and on receipt of proof of payment, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the **Judicial Magistrate, Katpadi, Vellore District**, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each 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 conditions that:

[a] the petitioners shall report before the respondent police daily at 10.00 a.m., until further orders.

[b] the petitioners shall not tamper with evidence or witness either during investigation 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 accused thereafter absconds, a fresh FIR can be registered under Section 269 BNS.

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