



Crl.O.P.No.28295 of 2024

A.D.JAGADISH CHANDIRA, J.

WEB COPY

The petitioner/ A1 apprehends arrest at the hands of the respondent police for the offences punishable under Sections 303(2) of The Bharatiya Nyaya Sanhita (BNS), 2023 and 4(1), 21(1) of Mines and Minerals (Development & Regulations) Act, 1957 in Crime No.723 of 2024, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that when the respondent police were patrolling near Hotel Kannappa in Vikravandi to Kumbakonam Road, Mandapam Village, Vikravandi, Villupuram District, they intercepted a TATA Tipper Lorry bearing registration No.TN-32-BD-4281 and found about 5 units of gravel mineral were transported in it, without valid permission. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and she has been falsely implicated in this case. He would further submit that the petitioner is the owner of the vehicle and without her knowledge, gravel mineral were transported in her vehicle. He further submitted that she has no previous case against her and without prejudice to her



contentions, the petitioner is prepared to deposit an amount of Rs.10,000/- towards any charitable organization or association. Therefore, he prays for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent Police would submit that the quantity of gravel mineral involved is 5 units. He would further submit that the petitioner has no previous case pending against her. However, he vehemently opposed to grant anticipatory bail to 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.

WEB COPY

7. Taking into consideration the facts and circumstances of the case and the petitioner herein is the owner of the vehicle and without her knowledge the gravel mineral has been transported in her vehicle and that there is no previous case pending against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner. However, in order to curb 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 as one of the conditions for grant of anticipatory bail, the petitioner may be directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) to the credit of District Legal Services Authority, Villupuram District, without prejudice to her rights and contentions before the trial Court.

8. It is made clear that merely because the petitioner is depositing the amount, it would not amount to the petitioner 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 make 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, Villupuram 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 her appearance, within a period of fifteen days from the date on which the order copy made ready, before the **Judicial Magistrate, Vikravandi** on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten 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 conditions that:

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

[b] the petitioner 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 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]**;

[e] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 BNS.

13.11.2024

stn



WEB COPY

Crl.O.P.No.28295 of 20



A.D.JAGADISH CHANDIRA, J.

stn

Crl.O.P.No.28295 of 2024

13.11.2024