



Crl.O.P.No.29126 of 2024

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A.D.JAGADISH CHANDIRA, J.

Apprehending arrest in connection with Crime No.232 of 2021, registered for the offences punishable under Sections 294(b), 353 and 506(I) of IPC, the present petition has been filed seeking anticipatory bail.

2.The case of the prosecution is that on 17.04.2021, the petitioners committed theft of lake sand and also abused the defacto complainant in filthy and obscene language had prevented her from discharging her official duty and threatened her with dire consequences. Hence, the case.

3.Pleading innocence on the part of the petitioners, false implication in the case, learned counsel for the petitioners seek indulgence of this court. He would further submit that the defacto complainant demanded bribe and they refused to give. He would further submit that they are ready to abide by any stringent condition that may be imposed by this Court.

4.The case of the prosecution as put forth by the learned Government Advocate (Criminal Side) appearing for the respondent police, opposing for grant of anticipatory bail, is that the petitioners committed theft of lake sand



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and also abused the defacto complainant in filthy and obscene language had prevented her from discharging her official duty and threatened her with dire consequences. He would further submit that there is no previous case as against the petitioners.

5.Having heard the learned counsel for the petitioners and the learned Government Advocate (Criminal Side) for the respondent Police 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 the sand involved is small quantity and that there is no previous case pending



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against the petitioners, this Court is inclined to grant anticipatory bail to the petitioners.

8. Accordingly, the petitioners are 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 **Judicial Magistrate No.II, Tambaram**, on condition that the petitioners shall execute a bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only) with two sureties for a like sum each 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 and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of his Aadhar Card or Bank pass Book to ensure their identity;

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

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[d] the petitioners 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 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]**;*

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

25.11.2024

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