



Crl.O.P.No.29087 of 2024

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A.D.JAGADISH CHANDIRA, J.

Apprehending arrest in connection with Crime No.671 of 2024 registered for the offences punishable under Sections 303(2) & 326(a) of BNS Act, 2023, the present petition has been filed seeking anticipatory bail.

2.The case of the prosecution is that, on 06.11.2024 at around 16.00 p.m. the respondent police during their routine checkup found the petitioner along with one Murugan (A2) said to have illegally transported 3 units of lake sand in a tripper lorry bearing registration No.TN 28-BK-0995. Hence the case.

3.Pleading innocence on the part of the petitioner, false implication in the case, learned counsel for the petitioner seeks indulgence of this court. He would submit that the petitioner is ready to abide by any stringent condition that may be imposed by this Court. Hence, he prayed for grant of anticipatory bail to the petitioner.

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 petitioner along with other accused



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attempted to take three units of lake sand in Tripper lorry. He would further submit that A2 has been arrested and released on bail and there is no previous case as 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 the sand involved is small quantity and that there is no previous case pending against the petitioner, this Court is inclined to grant anticipatory bail to the



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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.5,000/- (Rupees Five Thousand only) to the credit of District Legal Services Authority, Thirupathur**, without prejudice to his 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.5,000/- (Rupees Five Thousand only)** by way of Demand Draft/RTGS/NEFT to the credit of the **District Legal Services Authority, Thirupathur**, 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 appearance, within a period of fifteen days from the date of receipt of a copy of



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this order, before the learned **Judicial Magistrate No.1, Thirupathur**, on

condition that the petitioner shall execute a bond for a sum of **Rs.15,000/-**

(Rupees Fifteen 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 said Magistrate, on further condition that:

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

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

[d] the petitioner shall not abscond either during 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 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]**;*

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



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