



Crl.O.P.No.29703 of 2024

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A.D.JAGADISH CHANDIRA, J.

Apprehending arrest in connection with Crime No.477 of 2024, registered for the offences punishable under Sections 303(2) BNS read with 21(1) Mines and Minerals (Development and Regulation) Act, 1957, the present petition has been filed seeking anticipatory bail.

2.The case of the prosecution is that the accused persons were illegally transporting 4 units of Gravel (Lime Stones) without any valid license by using their lorries and the same was seized along with the vehicle by the respondent police. Hence, the case.

3.Pleading innocence on the part of the petitioner, false implication in the case, learned counsel for the petitioners seek indulgence of this court. They would further submit that the respondent police foisted a case against the petitioners herein for the statistical purpose. They are no way connected with the offence as alleged by the respondent police. They are the only bread winners of their family. They are ready to abide by any stringent condition that may may be imposed by this Court.



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4.The case of the prosecution as putforth by the learned Government Advocate (Criminal Side) appearing for the respondent police, opposing for grant of anticipatory bail, is that the petitioners were illegally transporting 4 units of Gravel (Lime Stones) without any valid license by using their lorries and the same was seized along with the vehicle by the respondent police. 1st petitioner is the owner of the vehicle, 2nd petitioner is the owner-cum-driver of the vehicle and 3rd petitioner is the driver of the respective vehicles. He would further submit that the first petitioner is not an accused in Crime No.477 of 2024 and there is no previous case as against the petitioners.

5.Heard the learned counsel for the petitioners 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)***,



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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 petitioner. 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.5,000/- (Rupees Five Thousand only) each to the credit of “The Chief Minister Relief Fund”** without prejudice to his rights and contentions before the trial Court.

8.It is made clear that merely because the petitioners are 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



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the petitioners.

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9. Accordingly, the petitioners shall make a non refundable deposit of **Rs.5,000/- (Rupees Five Thousand only) each** by way of Demand Draft/RTGS/NEFT to the credit of the “**The Chief Minister Relief Fund**”, 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 his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the **learned District Munsif -Cum- Judicial Magistrate, Madukkarai**, on condition that the petitioners 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 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



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orders.

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

[d] the petitioners 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 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 of BNS.

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