



CrI.O.P.No.29948 of 2024

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A.D.JAGADISH CHANDIRA, J.

Apprehending arrest in connection with Crime No.309 of 2024 registered for the offences punishable under Sections 303(2) and 326(a) of BNS r/w.21(1) Mines and Minerals (Development & Regulations) Act , the present petition has been filed seeking anticipatory bail.

2.Pleading innocence on the part of the petitioners, false implication in the case, learned counsel for the petitioners seek indulgence of this court. He also submits that the petitioners, without prejudice to the defence and contention, are ready and willing to deposit a sum of Rs.5,000/- **each** to any welfare scheme of the Government or any other organization. He further submits that the petitioners are ready to abide by any stringent condition that may be imposed by this court.

3.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 found to be illegally transporting $\frac{1}{4}$ unit of river sand in a bullock cart. The learned counsel further submits that two similar cases are pending against the first petitioner



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and one similar case is pending against the petitioners 2 to 4.

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4.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.

5.Taking into consideration the facts and circumstances of the case, in order to curb illegal sand mining activities and considering the voluntary submission made by the learned counsel for the petitioners, the petitioners are directed to deposit a sum of **Rs.5,000/- (Rupees five thousand only)** each to the credit of “**District Legal Services Authority, Cuddalore District**”, without prejudice to the right of defence before the Trial Court and making it clear that it would not amount to admission of guilt.



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6. 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, this court is inclined to grant anticipatory bail to the petitioners with certain conditions and accordingly, they 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 of receipt of a copy of this order, before the learned **Judicial Magistrate II, Viruthachalam** on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten 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] if the petitioners fail to surrender before the said Magistrate within a period of fifteen days, this Order shall stand automatically cancelled;

[b] the petitioners shall report before the respondent police every day at 06.30 p.m., for a period of two weeks, and thereafter, every Saturday at 06.30 p.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 investigation or trial.



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[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 abscond, a fresh FIR can be registered under Section 269 of BNS.

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