



Crl.O.P.No.29911 of 2024

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SUNDER MOHAN, J.

The petitioner/Accused, who apprehends arrest at the hands of the respondent police for the offence punishable under Sections 303(2) and 326(a) of BNS, 2023 in Crime No.773 of 2024, on the file of the respondent police, seeks anticipatory bail.

2.2. The case of the prosecution is that based on the secret information, the respondent and his team conducted a search, during which, they found that the petitioner was illegally transporting quarter unit of river sand in a Bullock Cart. Hence the case.

3. The learned counsel for the Petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the petitioner is ready to abide by any other stringent conditions that may be imposed by this Court. Hence, he prayed for grant of anticipatory bail to the petitioner.



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4. The learned Government Advocate (Crl. Side) for the respondent Police, while opposing the grant of anticipatory bail to the petitioner, would submit the accused had illegally transported quarter unit of river sand. He would further submit that there are two previous cases pending against the petitioner.

5. Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Crl.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



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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, 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.3,000/- (Rupees Three Thousand only) to the credit of District Legal Services Authority, Tirupathur District, 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



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to the right of the petitioner.

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9. Accordingly, the petitioner shall make a non refundable deposit of **Rs.3,000/- (Rupees Three Thousand only)** by way of Demand Draft/RTGS/NEFT to the credit of the **District Legal Services Authority, Thirupathur 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 his appearance, within a period of fifteen days from the date on which the order copy made ready, before the *learned Additional District Munsif cum Judicial Magistrate, Ambur*, 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 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;



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[b] the Petitioner shall report before the respondent police everyday 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 abscond, a fresh FIR can be registered under Section 269 of BNS.

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