



Crl.O.P.No.30682 of 2024

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A.D.JAGADISH CHANDIRA, J.

Apprehending arrest in connection with Crime No.435 of 2024 registered for the offences punishable under Sections 303(2) and 326(a) of BNS, 2023, the present petition has been filed seeking anticipatory bail.

2. The case of the prosecution is that, on 28.11.2024, based on secret information, the respondent police went near the Katpadi Railway flyover, at that time, the petitioners were illegally transporting 3 units of river sand in a tipper lorry without any valid documents and the same was seized. 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 submit that the petitioners are ready to abide by any stringent condition that may be imposed by 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.15,000/-** as non-refundable deposit to any welfare scheme of the Government or any organization. Hence, he prayed for grant of anticipatory bail to the petitioners.



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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, based on secret information, the respondent police went to the scene of occurrence and found that the petitioners who were the owner and driver of the tipper lorry, was illegally transported 3 units of river sand.

5. 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.

6. Considering the voluntary submission made by the learned counsel for the petitioners, the petitioners are directed to deposit a sum of **Rs.15,000/- (Rupees Fifteen Thousand only)** as non refundable deposit to "**The District Legal Services Authority, Villupuram**" without prejudice to the right of



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defence before the Trial Court and making it clear that it would not amount to admission of guilt.

7. Further, having heard the learned counsel for the petitioners, 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.

8. Accordingly, the petitioners are directed to make a non-refundable deposit of **Rs.15,000/- (Rupees Fifteen Thousand only)** by way of Demand Draft/RTGS/NEFT to the credit of "**The District Legal Services Authority, Villupuram**", without prejudice to their rights and contentions before the trial Court, on such deposit and production of proof, the petitioners 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-I, Villupuram**, on condition that the petitioners shall execute a separate 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:



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

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10.12.2024

A.D.JAGADISH CHANDIRA, J.



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