



Crl.O.P.No.30759 of 2024

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A.D.JAGADISH CHANDIRA, J.

Apprehending arrest in connection with Crime No.577 of 2024, registered for the offences punishable under Sections 303(2) of BNS and Section 21(1) of Mines and Minerals (Development Regulation) Act – 1957, the present petition has been filed seeking anticipatory bail.

2.The case of the prosecution is that on 26.11.2024, the petitioner involved in illegal transport of $\frac{1}{4}$ unit of sand using bullock cart and the same was seized 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 petitioner seeks indulgence of this court. He would further 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 putforth by the learned Government Advocate (Criminal Side) appearing for the respondent police, opposing for grant of anticipatory bail, is that on 26.11.2024, the petitioner involved in illegal



Crl.O.P.No.30759 of 2024

transport of ¼ unit of sand using bullock cart and the same was seized by the respondent police. He would further submit that there is two previous cases as against the petitioner in the year 2019 and 2020, so far for the past four years no case has been registered 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



Crl.O.P.No.30759 of 2024

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 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, Villupuram"**, 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, Villupuram"**, 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



Crl.O.P.No.30759 of 2024

appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate – II, Ulundhurpet, Kallakurichi District**, 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



Crl.O.P.No.30759 of 2024

*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.*

10.12.2024

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Crl.O.P.No.30759 of 2024



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Crl.O.P.No.30759 of 2024

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