



IN THE COURT OF THE PRINCIPAL DISTRICT AND SESSIONS
JUDGE, TUMAKURU.

Present:

Smt. K.B.Geetha, M.A.LL.B.
Prl. District & Sessions Judge,
Tumakuru.

Dated this the 4th day of November, 2022.

Criminal Misc.No.1519/2022

Petitioners:-

1. Sri. Nagendra,
S/o Late Narasimhappa,
Aged about 41 years.
2. Sri. Thimmareddy,
S/o Late Narayanareddy,
Aged about 56 years,
Both are R/at Kodamadagu Village,
Pavagada Taluk,
Tumakuru District.
(By Sri.V.M. Vasantha Kumar, Advocate)

-VERSUS-

Respondents:

1. Sri. J.R. Nagaraju
P.S.I., Pavagada P.S.
2. State of Karnataka
by Pavagada Police Station.

(By learned Public Prosecutor)

O R D E R

The petitioners' counsel has filed this petition
U/S.438 of Cr.P.C praying for anticipatory bail in



C.C.No.1274/2022 on the file of Prl. Civil Judge and JMFC, Pavagada arising out of P.C.R.No.49/2020 alleging the offences punishable U/S.21 of M.M.D.R Act-1957 and Rule 44 of KMMCR-1994 of Pavagada P.S., in the event of their arrest.

2. The learned counsel for petitioners stated the facts narrated in the complaint and contended that petitioner No.1 is the driver of the Tractor bearing Reg.No.KA-64-M-0205 and unnumbered Trailer and petitioner No.2 is the R.C. Owner of the said Tractor and Trailer. He further stated that the respondent No.1 has filed the private complainant U/S.200 of Cr.P.C in P.C.R. No.49/2020 and Prl. Civil Judge and JMFC., Pavagada has taken cognizance for the offence U/S.21 of MMDR Act and Rule 44 of KMMCR-1994. Learned counsel for the petitioners has further stated that the petitioners are innocents and law abiding citizens; they have been falsely implicated in the case; they hail from respectable families and having deep roots in the society; they are permanent residents of the address as mentioned in the cause-title of



the petition; as such, there is no chance of they fleeing away from justice. He further stated that petitioners have already obtained anticipatory bail pertaining to the same incident for which already Charge-Sheet is filed in C.C.No.207/2020 alleging the offence punishable under S.379 IPC. The offences alleged against the petitioners are not punishable either with death sentence or life imprisonment. Petitioners are ready to offer substantial sureties to the satisfaction of the Court and also ready to abide by the terms and conditions that may be imposed by the Court and undertaking that they will not tamper with prosecution witnesses and hamper the trial. Hence, prayed for allowing the bail petition.

3. The learned Public Prosecutor has filed objections to the petition. In the objection statement, he denied the averments of petition in toto and narrated the facts of the prosecution case in detail. He has further stated that initially, the respondent No.2 has registered the case in crime No.162/2019 and after completion of the investigation, it has filed the charge-sheet against the



petitioners and it is registered in C.C.No.207/2020. Afterwards, based on the private complaint filed by the respondent No.1 in P.C.R.No.49/2020; the learned Prl. Civil Judge and JMFC., Pavagada has taken cognizance and it is registered in C.C.No.1274/2022. Petitioners have absconded from the proceedings since from the date of incident. There is prima-facie case against the petitioners. He has further stated that, the petitioners are in the habit of committing similar offences; if the petitioners are released on bail, there is every chance of their abscondance, threatening prosecution witnesses and causing disappearance of evidence. Hence, prayed for rejection of bail petition.

4. Heard arguments of both sides.

5. From the above facts, the points that arise for consideration are:-

1. *Whether the petitioners are entitled for anticipatory bail as prayed in the petition?*
2. *What order?*



6. Findings of this Court on the above points are as under:-

Point No.1: In the ***affirmative***;

Point No.2: As per final order for the following:-

REASONS

7. **Point No.1:** Petitioners have prayed for anticipatory bail in C.C.No.1274/2022 on the file of Prl. Civil Judge and JMFC., Pavagada based on the private complaint filed by J.R. Nagaraju, P.S.I. of Pavagada P.S U/S.200 of Cr.P.C. in P.C.R.No.49/2020 alleging the offences punishable U/S.21 of MMDR Act and Rule 44 of KMMCR-1994.

8. It is stated in the complaint that on 16.07.2019 at 04.30 a.m., when the Revenue Inspector-Girlish Kumar, Kasaba Circle was in the Office of Pavagada Taluk, he received credible information that somebody was loading sand to the Tractor-Trailer in Government lake within the jurisdiction of Kadamadagu Village; he had been to the spot along with police and found Ferguson Company Tractor; by seeing the police in the uniform, the persons



who were loading the sand to Tractor-Trailer ran away from the spot and found that sand is filled in Trailer and there is no number mentioned in the Trailer and found that one load sand was being filled in it. Afterwards, he has lodged the complaint before Pavagada Police station and then, Tractor and Trailer were seized in presence of panchas. Then, spot panchanama from which place, the sand was loaded and transported is also conducted. On 08.08.2019 the petitioners themselves surrendered before Pavagada Police station and on enquiry, they came to know that petitioner No.1 is the driver of the said Tractor-Trailer and petitioner No.2 is the owner of the said Tractor-Trailer and they have produced documents in that regard. Hence, he lodged complaint to take suitable action against illegal transportation of sand without the licence of the Government.

9. Considering all these facts, prima-facie the offence U/S.21 of MMDR Act and Rule 44 of KMMCR-1994 are committed, the learned Prl. Civil Judge and JMFC., has taken cognizance for the aforesaid offences.



10. The aforesaid offences are exclusively triable by this Court of Sessions and the maximum punishment is five years, non-bailable and those offences are compoundable in nature.

11. After filing charge-sheet, the learned JMFC had taken cognizance and issued summons to the accused persons and as the offences are non-bailable in nature, the petitioners are having apprehension of their arrest.

12. Petitioners contended that they are having permanent residents of the petition cause title address; as such, there is no chance of their abscondance and they are ready to abide by the terms and conditions that may be imposed by this Court. Initially, petitioners have already obtained anticipatory bail pertaining to the same incident for which already Charge-Sheet is filed in C.C.No.207/2020. Hence, they are also entitled for anticipatory bail. The apprehension of the learned Public Prosecutor could be safeguarded by imposing suitable conditions. Hence, this Court opines that the petitioner is



entitled for anticipatory bail with some conditions.

Accordingly, **point No.1** is answered in the **affirmative**.

13. Point No.2:- In view of findings on point No.1, this Court proceeds to pass the following:-

O R D E R

The bail petition filed U/S.438 of Cr.P.C., is hereby allowed.

Anticipatory bail is granted to the petitioners. The respondent-police i.e., Pavagada P.S. are hereby directed to release the petitioners on bail in the event of their arrest in C.C.No.1274/2022 on the file of Prl. Civil Judge and JMFC., Pavagada, which is registered based on the Private Complaint No.49/2020 alleging the offences punishable U/S.21 of MMDR Act and Rule 44 of KMMCR-1994, subject to following conditions:-

1. The petitioners shall execute personal bond for a sum of Rs.50,000/-each with one surety for like-sum to the satisfaction of concerned JMFC Court or arresting authority.
2. They shall not threaten or tamper with prosecution witnesses directly or indirectly.
3. They shall not commit similar offences.
4. They are hereby directed to appear before the concerned JMFC within a period of 30 days



from the date of this order and obtain regular bail.

5. They shall appear before Court on all hearing dates till completion of trial without exception.
6. They shall produce their ID and address proof documents before learned JMFC.

If any of these conditions are violated, then the bail bond will be automatically cancelled.

(Dictated to the Stenographer. Transcribed and computerized by her. Script corrected, signed and pronounced by me in the open Court on this the 4th day of November, 2022.)

(K.B.Geetha)

Prl. District & Sessions Judge,
Tumakuru.