

**IN THE COURT OF V ADDITIONAL DISTRICT JUDGE,
BENGALURU RURAL, SITTING AT DEVANAHALLI**

DATED THIS THE 15TH DAY OF DECEMBER, 2022

:PRESENT:

Sri BIRADAR DEVINDRappa N., B.A.,L.L.B.[Spl.]
V Additional District & Sessions Judge,
Bengaluru Rural, [to sit at Devanahalli].

Criminal Miscellaneous No.15332/2022

PETITIONERS : 1] MANJUNATHA GOWDA,
S/o Sonnegowda,
Aged about 30 years,
R/at Tharahunase Village,
Jala Hobli, Yelahanka Taluk.

2] KEMPEGOWDA,
S/o Sonnegowda,
Aged about 25 years,
R/at Tharahunase Village,
Jala Hobli, Yelahanka Taluk.

Rep. by - Mr.TKV- Advocate
V/s

RESPONDENT : STATE BY - RAJANUKUNTE
POLICE STATION

Rep. by Public Prosecutor

ORDER ON BAIL APPLICATION U/s 438 OF Cr.P.C.

Accused No.2 and 3 of Crime No.32/2017 of

Rajanukunte Police Station, Rajanukunte [CC No.4471/2017 on the file of Prl. Civil Judge and JMFC, Devanahalli] have filed this petition under Section 438 of Cr.P.C., for anticipatory bail.

2. Above said case was registered against accused No.1 and 2 for the offences punishable under Section 42, 43 and 44 of Karnataka Minor Mineral Consistent Rule, 1994, under Section 21, 4[1], 4[1A] of Mines and Minerals Regulation of Development Act, 1957 and Section 379 of I.P.C. on the basis of information dated 15.02.2017 furnished by one M.Balaji, P.S.I. Matter was investigated and charge-sheet is filed against accused No.1 to 4 for the offence punishable under Section 21 of Mines and Minerals Regulation of Development Act, 1957 and Section 379 of I.P.C. Accused No.2 and 3 are shown as absconding. Hence, this petition filed by the accused No.2 and 3.

3. Learned Public Prosecutor filed objection.

4. Heard both the sides and perused the records.

Thereafter, following points for arise for determination.

- 1] Whether the petitioners/accused are entitled to the anticipatory bail?

2] What Order?

5. My findings to the above points are as under:

Point No.1 : In the Affirmative;

Point No.2 : As per the Order
for the following:

-: REASONS :-

6. **POINT No.1**: Brief facts of prosecution that, on 15.02.2017 at 11.30 a.m., in land bearing Sy.No.87 of village Tarahunase, belonging to the Government, within the limits of Rajanukunte Police Station, Rajanukunte, accused persons have cut the stones with the compressor bearing chassis No.HAR3DXSSV01865194, Engine No.MFT60, D06A04B, CT2049978 and another chassis No.70V19, 05M29C, M2047905 without obtaining permission from the Government, transported the stones for sale thereby committed the alleged offences. Now, the accused No.2 and 3 have filed this petition on the following grounds:-

Petitioners accused are innocent law abiding citizen, businessmen and residing in the address mentioned in the cause title. Alleged offences are not punishable with death or imprisonment for life. They are

ready and willing to abide by the terms and conditions and furnish surety. Accordingly, it is prayed to allow the petition.

7. In her objections Learned Public Prosecutor reiterates the prosecution case and investigation story and contends that, accused petitioners are having financial and political influence and they may threaten the witnesses, hamper the prosecution case, commit similar offences and abscond. Accordingly, it is prayed to reject the petition.

8. Copies of JMFC order sheet, FIR, report, PF list, mahazar, charge-sheet, statements of witnesses and Investigating Officer's letter addressed by the Learned Public Prosecutor are made available.

9. No case is made out to hold that petitioners' presence is required for custodial interrogation. Nothing is there to hold that grant of bail would come in the way of free fair and full investigation. Alleged offences are not punishable with death or life imprisonment. No previous conviction is proved. Accused may be prevented from committing offence and hampering prosecution case and their presence may be secured by imposing

conditions. Hence, they are entitled to the anticipatory bail. Accordingly, point No.1 is answered in the 'Affirmative'.

10. **POINT No.2**:- For the foregoing reasons, I proceed to pass the following:-

ORDER

Petition under Section 438 of Cr.P.C filed by the accused No.2 and 3 of Crime No.32/2017 of Rajanukunte Police Station, Rajanukunte [CC No.4471/2017 on the file of Prl. Civil Judge and JMFC, Devanahalli] for the offence punishable under Section 21 of Mines and Minerals Regulation of Development Act, 1957 and Section 379 of I.P.C. is allowed. They are granted bail subject to execution of personal bond for Rs.1,00,000/- each with one surety for like sum to the satisfaction of Investigating Officer with following conditions:-

(a) They shall appear before the Investigating Officer within ten days from today.

(b) They shall appear before the court on all the dates of hearing except, exceptional circumstances.

(c) They shall not commit offence similar to the offence of which they are accused or any other offence.

(d) They shall not directly or indirectly make any inducement or threat to any person acquainted with the facts of the case.

(e) They shall not leave India till disposal of the case without prior permission of Trial Court and,

(f) They shall furnish all available residential and ID proof documents.

[Dictated to the Stenographer, transcribed and computerized by her, corrected, signed and then pronounced by me in the open court on this the 15th day of December, 2022.]

[BIRADAR DEVINDRAPPA N.]
V Addl. District & Sessions Judge,
Bengaluru Rural, Sitting at Devanahalli.