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**IN THE HIGH COURT OF KARNATAKA  
DHARWAD BENCH**

DATED THIS THE 31<sup>ST</sup> DAY OF AUGUST 2017

BEFORE

**THE HON'BLE MR. JUSTICE BUDIHAL. R.B**

CRIMINAL PETITION NO.101832/2017

BETWEEN:

Sri.Kashimsab Mohammadasab  
Kurubannvar, Aged about 38 years,  
Occ : Business, R/o.Plot No.15,  
Nurani Block, Nekar Nagar, Old Hubballi,  
Dist-Dharwad.

...Petitioner

(By Sri.Sunil Desai, Advocate)

A N D :

State of Karnataka, By Betageri  
Extension Police Station,  
Represented by the State Public Prosecutor,  
High Court Building, Dharwad- 580 001.

...Respondent

(By Sri.Anand K.Navalagimath, HCGP)

This Criminal Petition is filed under Section 438 of Cr.P.C. seeking to grant him anticipatory bail and direct the respondent police to release him on bail in the event of arrest by the respondent police in the Crime No.15/2017 of

Betageri Extension Police Station for the offence punishable under Sections 46, 43 of Karnataka Minor Mineral Concession Rule 1994, Sections 21, 22 of the Mines and Minerals Regulation of Development Act, 1957 and Section 379 of IPC.

This petition coming on for Orders, this day, the court, made the following:

**ORDER**

This petition is filed by the petitioner/accused under Section 438 of Cr.P.C. seeking anticipatory bail, to direct the respondent-police to release the petitioner on bail in the event of his arrest for the alleged offences punishable under Sections 46, 43 of Karnataka Minor Mineral Concession Rule 1994, Sections 21, 22 of the Mines and Minerals Regulation of Development Act, 1957 and Section 379 of IPC registered in respondent Police Station Crime No.15/2017.

2. Heard the arguments of the learned counsel appearing for the petitioner/accused and also arguments of the learned HCGP appearing for the respondent-State.

3. The learned counsel for the petitioner made the submission that, though in the complaint and in the FIR name of the petitioner is not figured, but petitioner is the owner of the vehicle, which is used by another accused. But he is under apprehension of arrest at the hands of the respondent-police. Hence he submitted that, by imposing reasonable conditions he may be admitted to anticipatory bail.

4. Per Contra, the learned High Court Government Pleader made the submission that, when he has given his vehicle to other accused for committing the said offences, the petitioner is also equally responsible for the said incident. Hence he submitted, petitioner is not entitled to be granted with bail.

5. I have perused the grounds urged in the bail petition, FIR, complaint and the order passed by the learned Sessions Judge, rejecting the bail application, it is submitted that in the complaint as well as in the FIR the name of the present petitioner is not mentioned, but to

maintain the petition seeking anticipatory bail, registration of FIR is not condition precedent as ruled by the Hon'ble Apex Court in the case of **Gurubaksh Singh Sibbia & others Vs. State of Punjab reported in 1980 (2) SCC 565.**

If the petitioner makes out reason for apprehension, petition for anticipatory bail can be maintained. Looking to the grounds urged in the petition, petitioner has contended that, he is innocent and he has not involved in committing the alleged offences. But however he has stated, he is the owner of the vehicle. Therefore it is for the prosecution to establish that knowing fully well that the other accused persons using the vehicle for committing the said offences, which is a matter of trial and at this stage it cannot be concluded that the petitioner committed the said offence. He has contended that, he is ready to abide by any reasonable conditions to be imposed by Court. And the alleged offences are triable by the Magistrate Court, they are not exclusively punishable with death or imprisonment for life.

6. Hence petition is allowed, the respondent Police is directed to enlarge the petitioner/accused on bail in the event of his arrest in Crime No.15/2017 for the above said offences, subject to the following conditions:

- i. Petitioner has to execute personal bond for a sum of Rs.50,000/-, and furnish one surety for the like sum to the satisfaction of arresting authority.
- ii. Petitioner shall not tamper with any of the prosecution witnesses directly or indirectly.
- iii. Petitioner has to make himself available before the IO for interrogation, as and when called for.
- iv. Petitioner has to appear before the concerned Court within 30 days from the date of this order and to execute the personal bond and the surety bond.

**Sd/-  
JUDGE**

Ckk