



Crl.O.P.No.11806 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.05.2024

CORAM

THE HON'BLE MR. JUSTICE **R.SAKTHIVEL**

Crl.O.P.No.11806 of 2024

1. M.Selvamani

2. S.Vicky @ Vignesh

...Petitioner/A1 and A2

Vs.

The State rep. by

The Inspector of Police,

Thirukazhukundram Police Station,

Chengalpattu District.

(Crime No.238 of 2024)

...Respondent/ Complainant

PRAYER: Criminal Original Petition filed under Section 438 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant an order of pre-arrest bail to the petitioners in Crime No.238 of 2024 on the file of the respondent police.

For petitioners : Mr.G.Magesh Kumar

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl. Side)



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ORDER

This Criminal Original Petition has been filed by the petitioner on 14.05.2024 under Section 438 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant an order of pre-arrest bail.

2. The petitioners/ A1 and A2, apprehend the arrest at the hands of the respondent police for the alleged offences punishable under Sections 379 and 430 of the Indian Penal Code, 1860 (Act No.45 of 1860) in Crime No.238 of 2024, on the file of the respondent-Police.

3. The case of the prosecution is that on 24.04.2024, the petitioners have illegally excavated and transported ½ unit of river sand in ' Tractor and Trailer' vehicle; that the respondent-police intercepted the said vehicle; and that at that time, the petitioners escaped from that place of occurrence. Hence, the case.

4. The learned counsel for the petitioners submitted that the petitioners have not committed any offence as alleged by the prosecution;



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and that the respondent-police registered the case only for statistical purpose. He further submitted that petitioners have permanent residence and had deep roots in the Society and that they are ready to obey the condition if any imposed by this Court. Accordingly, he prayed to grant an order of pre-arrest bail to the petitioners.

5. The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioners have illegally excavated and transported ½ unit of river sand in " Tractor and Trailer' vehicle; Accordingly, he prayed to dismiss this Criminal Original Petition.

6. Heard on both sides. This Court has perused the records.

7. Considering the quantity of river sand allegedly excavated and transported by the petitioners and with a view to give an opportunity to the petitioners to reform themselves, this Court grants an order of pre-arrest bail to the petitioners subject to the following conditions.



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(i) The petitioners shall be released on bail in the event of their arrest or in the event of their surrender before the learned **Judicial Magistrate, Thirukazhukundram**, within a period of 15 days from today, on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each along with two sureties each for a like sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the satisfaction of the learned **Judicial Magistrate, Thirukazhukundram**.

ii) The petitioners shall appear and sign before the respondent **Police, daily at 10.00 a.m, until further orders;**

(iii) The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019]. The learned Judicial Magistrate shall obtain a copy of any one of identity proofs to ensure their identity;



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(iv) The petitioners shall not, directly or indirectly, cause any threat to the defacto complainant and witnesses and shall not tamper the evidence;

(v) On breach of any of the aforementioned conditions, the learned Magistrate is entitled to pass appropriate orders against the petitioners in accordance with law as if the aforementioned conditions are imposed by him as laid down by the Hon'ble Supreme Court in ***P.K. Shaji vs. State of Kerala*** [(2005) 13 SCC 283].

8. Accordingly, this Criminal Original Petition is allowed subject to the conditions stated supra.

17.05.2024

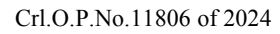
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Note:-

1. Registry is directed to forthwith upload this order in the official website of this Court.
2. All concerned to act on this order being uploaded in official website of this Court without insisting on certified hard copies. To be noted, this order when uploaded in official website of this Court will be watermarked and will also have a QR code.

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- 1.The Judicial Magistrate,
Thirukazhukundram
- 2.The Inspector of Police,
Thirukazhukundram Police Station,
Chengalpattu District.
- 3.The Public Prosecutor, High Court of Madras.

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