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Crl.O.P.No.160 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.01.2025

CORAM

THE HONOURABLE Mr. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.No.160 of 2025

1. M.Murugesan
2. M.Rajendiran

... Petitioners

Vs

The State rep by
The Inspector of Police,
Nangavalli Police Station,
Salem District.
Crime No.265 of 2024.

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of of Bharatiya Nagarik Suraksha Sanhita, 2023, praying to enlarge the petitioner on anticipatory bail in the event of their arrest by the respondent Police in Crime No.265 of 2024 on the file of the respondent police.

For Petitioners : Mr.Saravanan.A

For Respondent : Mr.Santhosh
Government Advocate (Crl.Side)

ORDER

Apprehending arrest in connection with Crime No.395 of 2024 registered for the offences punishable under Sections 303 (2) of BNS and 21 (1) of Mines



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and Minerals (Development and Regulations) Act 1957, the present petition has been filed seeking anticipatory bail.

2. Pleading innocence on the part of the petitioners, false implication in the case, learned counsel for the petitioners seeks indulgence of this Court. Learned counsel for the petitioners would submit that the petitioners are innocents and that a case of gravel sand theft have been fabricated against them. He also submits that without prejudice to the defence and contention, they are ready and willing to deposit a sum of Rs.5,000/- and Rs.10,000/- each as non-refundable deposit to any welfare scheme of the Government or any organization. He further submits that the petitioners are ready to abide by any stringent condition that may be imposed by this Court.

3. The case of the prosecution as put forth by the learned Government Advocate (Crl. Side) appearing for the respondent Police, opposing for grant of anticipatory bail, is that the quantity of gravel sand involved is 3 units. He would further submit that the first petitioner has no previous case and the 2nd petitioner has six previous case pending against him.

4. Considering the voluntary submission made by the learned counsel for



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the petitioners, the first petitioner is directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) and the second petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) to the District Legal Services Authority, Mettur, without prejudice to the right of defence before the Trial Court and making it clear that it would not amount to admission of guilt.

5. 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.

6. Further, having heard the learned counsel for the petitioners and the learned Government Advocate (Crl. Side) for the respondent Police and perused the materials available on record, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions and accordingly, they are ordered to be released on bail in the event of arrest or on their appearance within a period of



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fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Mettur, on condition that the petitioners shall execute a separate bond each for a sum of Rs.10,000/- (Rupees Ten 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] if the petitioners fails to surrender before the said Magistrate within a period of fifteen days, this Order shall stand automatically cancelled;

[b] the petitioners shall report before the respondent Police daily at 10.30 a.m for a period of two weeks, thereafter on every Saturday at 10.30 a.m. until further orders;

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[d] the petitioners 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 petitioners 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



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registered under Section 269 of BNS.

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A.D.JAGADISH CHANDIRA, J,

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To

1. The Inspector of Police,
Nangavalli Police Station,
Salem District.
2. The Public Prosecutor,
High Court, Madras.

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