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Crl.O.P.No.202 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-01-2025

CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

CRL OP NO. 202 of 2025

RENUKA

D/o.Selvaraj, No.3-51, Moorankadu,
Varanallampalayam, Alathur Post, Salem District.
and another

Petitioner(s)

Vs

State Rep. By Its, Inspector Of Police
Sankari Police Station, Salem District. Crime
No.528 Of 2024

Respondent(s)

For Petitioner(s):

W.Camyles Gandhi

For Respondent(s):

Public Prosecutor

ORDER

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 303(2) of BNS r/w Section 21(1) of Mines and Minerals (Development & Regulations) Act, 1957 in Crime No.528 of 2024, on the file of the respondent police, seek anticipatory bail.



2. The case of the prosecution based on the complaint lodged by the defacto complainant is that, on 31.12.2024, while the defacto complainant and his subordinates were conducting vehicle checkup, they found that 2 units of rough sand were illegally transported in a tipper lorry bearing Registration No.TN-52-AC-2874 without any license or permit. Further, the driver of the said lorry ran away from the spot. Hence, this case.

3. Learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He would further submit that the first petitioner is the owner and the second petitioner is the driver of the said vehicle and they have not committed any offence, as alleged by the prosecution. He further submitted that the petitioners, without prejudice to his contentions, is prepared to deposit an amount of Rs.5,000/- each towards any charitable organization or association and also ready to produce solvent sureties and to abide by any condition that may be imposed on them. Therefore, he prays for grant of anticipatory bail to the petitioners.

4. Learned Government Advocate (Crl. Side) appearing for the respondent Police opposed for granting of anticipatory bail to the petitioners by



stating that, the quantity of rough stones involved is 2 units and worth about Rs.3,000/-. He further submitted that the petitioners herein are the owner and driver of the vehicle, in which the rough stones were illegally transported, further the petitioners have no previous case.

5. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.side) for the respondent and perused the materials available on record.

6. 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.

7. Taking into consideration the facts and circumstances of the case and the petitioners herein have no previous case, this Court is inclined to grant



anticipatory bail to the petitioners. However, in order to curb illegal sand mining activities and taking into consideration the voluntary submission made by the petitioner offering to deposit a considerable amount to any charitable organization or association, this Court is of the opinion that as one of the conditions for grant of anticipatory bail, the petitioners may be directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) each to the credit of District Legal Services Authority, Salem without prejudice to their rights and contentions before the trial Court.

8. It is made clear that merely because the petitioners are depositing the amount, it would not amount to the petitioners admitting their guilt in the criminal case and such amount is being paid without prejudice to the right of the petitioners.

9. Accordingly, the petitioners shall make a non refundable deposit of **Rs.5,000/- (Rupees Five Thousand only) each** by way of Demand Draft/RTGS/NEFT to the credit of the **District Legal Services Authority, Salem** and on such deposit and on receipt of proof of payment, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made



ready, before the *learned Judicial Magistrate -I, Sankagiri* on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties 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 learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further conditions that:

[a] the petitioners shall report before the respondent police daily at 10.30 a.m., until further orders.

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

[c] the petitioners shall not abscond either during investigation or trial.

[d] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the Petitioners 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];**



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A.D. JAGADISH CHANDIRA, J.

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[e] If the accused thereafter abscond, a fresh FIR can be registered under Section 269 of BNS.

08.01.2025

stn

To

1. State Rep. By Its, Inspector Of Police
Sankari Police Station, Salem District.
Crime No.528 Of 2024

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