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Crl.O.P.No.235 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. 235 of 2025

K Srinivasan
S/o.Krishnamoorthy No.5 56A, South Street, East
Vanagiri Sirkali Taluk, Vanagiri, Nagapattinam
609105

Petitioner(s)

Vs

The State Rep.By Inspector Of Police
Poraiyar Police Station, Mayiladuthurai District
Crime No.349 of 2024

Respondent(s)

For Petitioner(s):

John Josh S
R.Kanivannan
P.Saravanan

For Respondent(s):

Public Prosecutor

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 303(2) of BNS and Section 21(4) Mines and Minerals (Development & Regulations) Act, 1957 in Crime No.349 of 2024, on the file of the respondent police, seeks anticipatory bail.



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2. The case of the prosecution is that, while the defacto complainant along with her office staff were in their routine vehicle checkup duty, they found that 4 units of ordinary sand were illegally transported in a tipper lorry bearing Registration No.TN-45-AE-8899 without valid license, further the driver of the said lorry escaped from the place of occurrence. Hence, this case.

3. Learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the petitioner is no way connected to the offence, as alleged by the prosecution and he is the owner of the lorry. He further submitted that the petitioner, without prejudice to his contentions, is prepared to deposit an amount of Rs.10,000/- towards any charitable organization or association and also ready to produce solvent sureties and to abide by any condition that may be imposed on him. Therefore, he prays for grant of anticipatory bail to the petitioner.

4. Learned Government Advocate (Crl. Side) appearing for the respondent Police opposed for granting of anticipatory bail to the petitioner by stating that, the quantity of ordinary sand involved is 4 units. He further



submitted that the petitioner is the owner of the tipper lorry, in which the sand has been illegally transported and he has no previous case.

5. Heard the learned counsel for the petitioner 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 petitioner herein is the owner of the vehicle and he has no previous case, this Court is inclined to grant anticipatory bail to the petitioner. 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 petitioner may be directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) to the credit of District Legal Services Authority, Mayiladuthurai, without prejudice to his rights and contentions before the trial Court.

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

9. Accordingly, the petitioner shall make a non refundable deposit of **Rs.10,000/- (Rupees Ten Thousand only)** by way of Demand Draft/RTGS/NEFT to the credit of the **District Legal Services Authority, Mayiladuthurai**, and on such deposit and on receipt of proof of payment, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the *learned District Munsif cum Judicial Magistrate*,



Tharangampadi on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) 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 petitioner shall report before the respondent police daily at 10.30 a.m., until further orders.

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

[c] the petitioner 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 Petitioner in accordance with law as if the conditions have been imposed and the Petitioner 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 absconds, a fresh FIR can be registered under Section 269 of BNS.

08.01.2025

stn

To

1. The State Rep.By Inspector Of Police
Poraiyar Police Station,
Mayiladuthurai District
Crime No.349 of 2024

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