



CRL OP NO. 1448 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-01-2025

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THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

CRL OP NO. 1448 of 2025

1.P Seenivasan
S/o.Palanisamy, No.2/81, Periyasoragai, Mettur,
Periyasoragai, Salem District.

2.Settu,
S/o. Chinnasevi,
No.9-363, Pisikal Kadu, Pakkanadu, PO.
Salem District.

Petitioners(s)

Vs

The State by Inspector of Police
Poolampatti Police Station, Salem District. (Crime No.12 of 2025).

Respondent(s)

For petitioners(s): Mr. A. Saravanan

For Respondent(s): Mr.S.Santhosh, Government Advocate (Criminal Side).

ORDER

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 303(2) of the Bharatiya Nyaya Sanhita (BNS) Act, 2023, r/w Section 21(1) of Mines and Minerals Act, 1957, in Crime No.12 of 2025, on the file of the respondent police, seek anticipatory bail.



2. The case of the prosecution is that the petitioners were found to be involved in the illegal transport of 4 units of gravel sand in a vehicle bearing Registration No.TN-33-AH-3638. Hence, this case.

3. Learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in this case. He further submits that, without prejudice to his contentions, the petitioners are willing to deposit a non-refundable amount to any charitable organization or association. Therefore, he prays for grant of anticipatory bail to the petitioners.

4. Learned Government Advocate (Crl. Side) appearing for the respondent Police opposed the granting of anticipatory bail to the petitioners, stating that the quantity of gravel sand involved in this case is 4 units and that the petitioners are also willing to abide by any stringent conditions. He further submitted that the petitioners have no previous cases pending against them.

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 organized 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 quantity involved in this case, and the absence of any previous cases pending against them, 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 petitioners 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.10,000/- (Rupees Ten Thousand only) to the credit of District Legal Services Authority,



Thiruvannamalai District, without prejudice to his rights and contentions before the trial Court.

8. It is made clear that merely because the petitioners is depositing the amount, it would not amount to the petitioners admitting his 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.10,000/- (Rupees Ten Thousand only)** by way of Demand Draft/RTGS/NEFT to the credit of the **District Legal Services Authority, Salem District**, and on such deposit and on receipt of proof of payment, the petitioners 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, Edapadi**, on condition that the petitioners shall execute a bond for a sum of Rs.5,000/- (Rupees Five 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 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 the investigation or during the trial;

[c] the petitioners shall not abscond either during the investigation or during the 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 were 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];**

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

22.01.2025

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To
The State by Inspector of Police
Poolampatti Police Station, Salem District. (Crime No.12 of 2025).



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