



CRL OP NO. 1517 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-01-2025

CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

CRL OP NO. 1517 of 2025

VIJAYARAJ

S/o. Devaraj, No.546, Madha kovil Street, New Colony,
Avaniyapuram, Thiruvannamalai District. and another

petitioners(s)

Vs

The State Rep by, The Inspector of Police,
Peranamallur Police Station, Thiruvannamalai District.

(Crime No. 11 of 2025) Respondent(s)

For petitioners(s):

Appaswamee Vr
R.Sasikumar
V.Vijayarajan
S.Thiyagarajan
A.Tamilselvan

For Respondent(s):

S.Santhosh
Government Advocate (criminal Side)
Madras High Court.

ORDER

The petitioners apprehend arrest at the hands of the respondent police for the offences punishable under Sections 303(2) and 326(a) of BNS r/w Section 21(5) of Mines and Minerals (Development and Regulation) Act 1957, in Crime No.11 of 2025, on the file of the respondent police, seek anticipatory bail.



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2. Learned counsel for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He further submitted that the petitioners have not committed any offence as alleged by the prosecution and without prejudice to their contention, the petitioners are prepared to deposit an amount of Rs.5,000/- towards any charitable organization or association. Therefore, he prays for grant of anticipatory bail to the petitioners.

3.The case of the prosecution as put forth by the learned Government Advocate (Crl.Side) vehemently opposed for grant of anticipatory bail to the petitioners is that the petitioners have involved in illegal transportation of 1/4 unit of river sand in their vehicle, without valid permit or license. He also submitted that the petitioners have no previous case.

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

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 observed



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

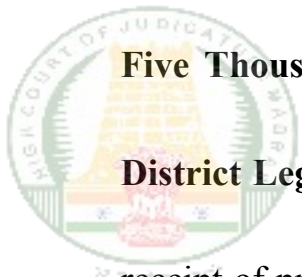
anticipatory bail, the role assigned to a person would have to be considered.

6. Taking into consideration the facts and circumstances of the case and the quantity of river sand involved in this 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 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.5,000/- (Rupees Five Thousand only) jointly to the credit of District Legal Services Authority, Thiruvannamalai District, without prejudice to their rights and contentions before the trial Court.

7. It is made clear that merely because the petitioners is 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.

8. Accordingly, the petitioners shall make a non refundable deposit of **Rs.5,000/- (Rupees**



Five Thousands only) jointly by way of Demand Draft/RTGS/NEFT to the the

District Legal Services Authority, Thiruvannamalai District, and on such deposit and on

receipt of proof of payment, the petitioners are ordered to be released on bail in the event of

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arrest or on their appearance, within a period of fifteen days from the date on which the order

copy made ready, before the ***Judicial Magistrate Court, Cheyyar*** on condition that the

petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each

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 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., for a period of two weeks and thereafter, every Saturday 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];**

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



24-01-2025

msv
To
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The Inspector of Police,
Peranamallur Police Station,
Thiruvannamalai District.