

CRL OP NO.1837 of 2025

1. IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28-01-2025**

CORAM

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

CRL OP NO.1837 of 2025

Deivanathan

Petitioner(s)

Vs.

The State Represented by,
The Sub- Inspector of Police,
Kattumannarkoil Police Station,
Cuddalore District (Crime No.407 of 2024)

Respondent(s)

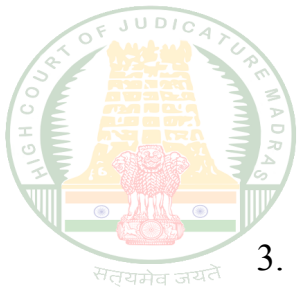
For petitioner(s): Mr. R. Parthiban

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

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 303(2), 326(a) of the Bharatiya Nyaya Sanhita (BNS), 2023, r/w Section 21(1) of Mines and Minerals Act, 1957, in Crime No.407 of 2024, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner, along with another individual, was found to be involved in the illegal transportation of 6 units of river sand in an Yamaha two-wheeler bearing Registration No.TN-68 – 1677 and one TVS XL bearing Registration No.TN-51-K-3339. Hence, this case.



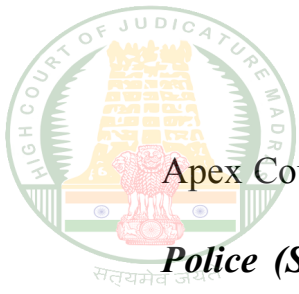
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3. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. He also submits that the petitioner had transported 150 kg of river sand for domestic purposes. He further submits that the petitioner is ready to abide by any conditions that may be imposed by this Court. Therefore, he prays for grant of anticipatory bail to the petitioner.

4. Learned Government Advocate (Crl. Side) appearing for the respondent Police opposed the granting of anticipatory bail to the petitioner, stating that the quantity of river sand involved in this case is 150 kg for his personal use and that the petitioner is also willing to abide by any stringent conditions. He further submitted that the petitioner has no previous cases pending against him.

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 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 him, and also taking note of the fact that the vehicle and the river sand were seized, this Court is inclined to grant anticipatory bail to the petitioner, accordingly, 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 Judicial Magistrate Court, Kattumannarkoil, Cuddalore District**, on condition that the petitioner 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] if the petitioner fails to surrender before the said Magistrate



within a period of fifteen days, this Order shall stand automatically cancelled;

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[b] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

[c] the petitioner shall report before the respondent police daily at 10:30 A. M., for a period of one week and thereafter, every Saturday at 10:30 A.M., until further orders;

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

[e] the petitioner shall not abscond either during the investigation or during the trial;

[f] 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 was 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]**;

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

28.01.2025

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To

The State Represented by,

The Sub- Inspector of Police, Kattumannarkoil Police Station,

Gudalore District (Crime No.407 of 2024)



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A.D. JAGADISH CHANDIRA, J.

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