



Crl.O.P.No.2149 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.01.2025

CORAM

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

Crl.O.P.No.2149 of 2025

1. Rathinavel
2. Koothaiyan

... Petitioners

Vs

The State rep by
The Inspector of Police,
Thirunavalur Police Station,
Kallakurichi district.
Crime No.8 of 2025.

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of of Bharatiya Nagarik Suraksha Sanhita, 2023, praying to enlarge the petitioner on anticipatory bail in the event of his arrest by the respondent Police in Crime No.8 of 2025 on the file of the respondent police.

For Petitioner : Mr.Karhikeyan Vajjiram

For Respondent : Mr.Santhosh
Government Advocate (Crl.Side)



Crl.O.P.No.2149 of 2025

ORDER

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2. The case of the prosecution is that the petitioner illegally transported $\frac{1}{4}$ unit of river sand in a bullock cart, without any approval. Hence, the case.

3. Pleading innocence on the part of the petitioner, false implication in the case, learned counsel for the petitioner seeks indulgence of this Court. Learned counsel for the petitioner would submit that the petitioner is innocent and that a case of river sand theft has been fabricated against him. He also submits that the petitioner has no previous case against him and without prejudice to the defence and contention, he is ready and willing to deposit a sum of Rs.5,000/- as non-refundable deposit to any welfare scheme of the Government or any organization. He further submits that the petitioner is ready to abide by any stringent condition that may be imposed by this Court.



Crl.O.P.No.2149 of 2025

WEB COPY

4. The case of the prosecution as put forth by the learned Government Advocate (Crl. Side) appearing for the respondent Police, opposing for grant of anticipatory bail, is that the quantity of river sand involved is $\frac{1}{4}$ unit. He would submit 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.

7. 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.



Crl.O.P.No.2149 of 2025

WEB COPY

7. Taking into consideration the facts and circumstances of the case and the sand involved is small quantity and that there is no previous case pending against the petitioners, 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 Ten Thousand five hundred only) each, to the credit of District Legal Services Authority, Ulundurpet, 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



Crl.O.P.No.2149 of 2025

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, Ulundurpet, 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 of receipt of a copy of this order, before the learned **Judicial**

Magistrate No.II, Ulundurpet, on condition that the petitioners shall

execute a separate 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 said Magistrate, on further condition that: [a] if the

petitioners fail to surrender before the said Magistrate within a period of

fifteen days, this Order shall stand automatically cancelled;

[b] the petitioners shall report before the respondent Police daily at 10.30 a.m for a period of two weeks, thereafter on every Saturday at 10.30 a.m. until further orders;

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

[d] the petitioners shall not abscond either during investigation or trial;

[e] On breach of any of the aforesaid conditions, the



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Crl.O.P.No.2149 of 2025

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];

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

30.01.2025

dpq

To

1. The Inspector of Police,
Thirunavalur Police Station,
Kallakurichi district.
2. The Public Prosecutor
High Court Madras.



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Crl.O.P.No.2149 of 2025

A.D.JAGADISH CHANDIRA, J.

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Crl.O.P.No.2149 of 2025

30.01.2025