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Crl.O.P.No.2229 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2025

CORAM

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.2229 of 2025

1.R.Gokul

2.C.Raja

... Petitioners

Vs.

The State represented by,
The Inspector of Police,
J-3, Guindy Police Station,
Chennai – 600 032.
(Crime No.22 of 2025).

... Respondent

For Petitioners : Mr.V.Bhagyaraj

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

ORDER

Apprehending arrest in connection with Crime No. 22 of 2025 registered for the offences punishable under Sections 303(2) BNS r/w 21(1) of M.M.D.R.Act, the present petition has been filed by the petitioners seeking anticipatory bail.



Crl.O.P.No.2229 of 2025

2. Pleading innocence on the part of the petitioners, false implication in the case, learned counsel for the petitioners seek indulgence of this Court. He also submits that the petitioners are no way connected with the alleged offence and they are falsely implicated in this case. He further submits that the petitioners are ready to abide by any stringent condition that may be imposed by this court.

3. The case of the prosecution, as put forth by the learned Government Advocate (Criminal Side) appearing for the respondent police, opposing for grant of anticipatory bail, is that on 23.01.2025, when the respondent and their team were on routine patrol duty, they found that the accused had illegally transported two units of Savudu sand in a lorry bearing registration No.TN 22 ED 1099 without any permission. He further submits that no previous case is pending against the petitioners.

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



Crl.O.P.No.2229 of 2025

WEB COPY

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 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.

6. 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 Five Thousand only) to the credit of Tamil Nadu State Legal Services Authority, Chennai District, without prejudice to his rights and contentions before the trial



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

8. Accordingly, the petitioners shall make a non refundable deposit of **Rs.5,000/- (Rupees Five Thousand only)** by way of Demand Draft/RTGS/NEFT to the credit of the **Tamil Nadu State Legal Services Authority, Chennai 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 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 IX Metropolitan Magistrate Court, Saidapet, Chennai, 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 condition that:



Crl.O.P.No.2229 of 2025

WEB COPY

[a] the petitioners 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.

[b] the petitioners shall report before the respondent police everyday 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 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 abscond, a fresh FIR can be registered under Section 269 B.N.S.

30.01.2025

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Crl.O.P.No.2229 of 2025

A.D.JAGADISH CHANDIRA.,J.

drl

To

- 1.The Inspector of Police,
J-3, Guindy Police Station,
Chennai – 600 032.
2. The Public Prosecutor,
High Court of Madras.

Crl.O.P.No.2229 of 2025

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