

CRL OP(MD). No.2088 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 27/02/2025

PRESENT

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

CRL OP(MD). No.2088 of 2025

1. Kanakaraj @ Kanagaraj

2. K.Bharath

... Petitioners/ Accused Nos.1 & 4

Vs

The State of Tamil Nadu,
Rep by the Inspector of Police,
Jeeyapuram Police Station,
Trichy District.
Crime No. 3/2025.

... Respondent/Complainant

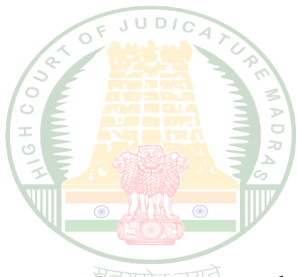
For Petitioner : Mr.R.Maheswaran.

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

PETITION FOR ANTICIPATORY BAIL Under Sec.482 of BNSS

PRAYER :-

For Anticipatory Bail in Crime No.3 of 2025 on the file of the respondent-Police.



CRL OP(MD). No.2088 of 2025

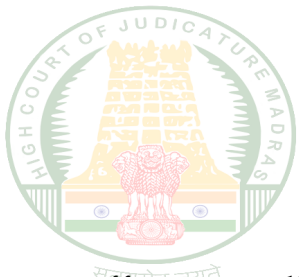
ORDER : The Court made the following order :-
WEB COPY

This Criminal Original Petition has been filed by the petitioners on 29.01.2025 under Section 482 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 praying to grant an order of pre-arrest bail.

2. The petitioners apprehend arrest at the hands of the respondent-Police for the offences punishable under Section 303(2) of the Bharatiya Nyaya Sanhita (BNS), 2023 and Section 21(4) of the Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.3 of 2025, on the file of the respondent-police.

3. The case of the prosecution is that the petitioners used to excavate and transport the sand illegally from the land belonging to the defacto complainant, during night hours. On 07.01.2025, at about 6.00 a.m., based on the information of the nearby land owner, the defacto complainant arrived at the land, he noticed that as usual, the petitioners and other accused persons were illegally excavating and loading the sand into a Bolero Pickup, bearing registration No.TN-21-AV-0583. On seeing the defacto complainant, they fled from the place of occurrence leaving their two-wheeler bearing registration No.TN-16-X-5982. Hence, the case. The petitioners have been arrayed as A1 and A4.

4. Mr.R.Maheswaran, the learned counsel appearing for the petitioners, submits that the petitioners are innocent persons and they have not committed any



CRL OP(MD). No.2088 of 2025

WEB COPY

offence as alleged by the prosecution. He however submits that the petitioners are ready to abide by any conditions that may be imposed by this Court. Hence, she prays for grant of pre-arrest bail to the petitioners.

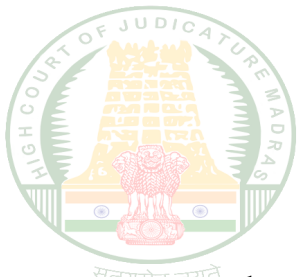
5. Per contra, Mr.K.Sanjai Gandhi, the learned Government Advocate (Crl. Side) appearing for the respondent-Police, submits that the petitioners and other accused persons were illegally excavating and transporting one unit of sand from the land belonging to the defacto complainant. A1 is the owner of the vehicle and the mastermind to the offence, and A4 is the loadman. He further submits that the second petitioner/A4 has two previous cases, which are similar in nature. Hence, he prays to dismiss this Criminal Original Petition.

6. Heard on both sides. This Court has perused the records.

7. When this Court was not inclined to grant pre-arrest bail to the first petitioner/A1, considering the previous cases pending against him, the learned counsel for the petitioners seeks permission of this Court to withdraw this petition insofar as the first petitioner/A1 is concerned. To that effect, he made an endorsement in the case file and the same is extracted hereunder:

“I may be permit to withdraw the petition, so far as 1st petitioner concerned”

8. In view of the endorsement made by the learned counsel for the petitioners, this petition is dismissed as not pressed insofar as the first petitioner/A1 is



CRL OP(MD). No.2088 of 2025

concerned. However, as regards the second petitioner/ A4, this petition survives.

WEB COPY

9. The second petitioner is a load man. The second petitioner has permanent residence, and deep roots in the society. Hence, there is a less possibility of absconding. Considering the same and considering the facts and circumstances of the case, the nature of the offence committed by the second petitioner/ A4, and the quantity of sand allegedly excavated and transported by the second petitioner/ A4, and with a view to give one more opportunity to the second petitioner to reform himself, this Court is inclined to grant an order of pre-arrest bail to the second petitioner/ A3 subject to the following conditions:

(i) The second petitioner/ A4 shall be released on bail in the event of his arrest or in the event of his surrender before the learned Judicial Magistrate No.III, Trichy, within a period of 15 days from the date on which the order copy is made ready, on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) along with two sureties each for a like sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the satisfaction of the learned Judicial Magistrate No.III, Trichy;

(ii) Thereafter, the second petitioner/ A4 shall appear and sign before the respondent-Police daily at 10.00 a.m., until further orders;

(iii) The sureties shall affix their photographs and left thumb impression in the

Application for Suretyship [Judicial Form No.46 annexed to The Criminal Rules of

<https://www.mhc.tn.gov.in/judis>



CRL OP(MD). No.2088 of 2025

Practice, 2019]. The learned Judicial Magistrate No.III, Trichy, shall obtain a copy of any one of identity proofs to ensure their identity;

(iv) The second petitioner/ A4 shall furnish his residential address and mobile number to the learned Judicial Magistrate No.III, Trichy;

(v) The petitioner shall make himself available for interrogation by a police officer as and when required;

(vi) The petitioner shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

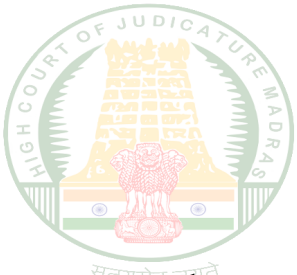
(vii) The petitioner shall not leave India without previous permission of the Court;

(viii) The second petitioner/ A4 shall not, directly or indirectly, cause any threat to the defacto complainant and witnesses and shall not tamper the evidence;

(ix) On breach of any of the aforementioned conditions, the learned Judicial Magistrate No.III, Trichy, or Trial Court as the case may be, is entitled to pass appropriate orders against the second petitioner/ A4 in accordance with law as if the aforementioned conditions are imposed by him as laid down by the Hon-ble Supreme Court in P.K. Shaji vs. State of Kerala [(2005) 13 SCC 283].

10. Accordingly, this Criminal Original Petition is allowed insofar as the

<https://www.mhc.tn.gov.in/judis>



CRL OP(MD). No.2088 of 2025

second petitioner/A4 is concerned, subject to the conditions stated supra, and this
WEB COPY

Criminal Original Petition is dismissed as withdrawn insofar the first petitioner/A1
is concerned.

sd/-
27.02.2025

/ TRUE COPY /

/03/2025
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

APD

TO

1. The Judicial Magistrate No.III,
Trichy.
2. Do-Through The Chief Judicial Magistrate,
Trichy District.
3. The Inspector of Police,
Jeeyapuram Police Station,
Trichy District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CRL OP(MD). No.2088 of 2025

CRL OP(MD) No.2088 of 2025
Date : 27/02/2025

SL(19.03.2025)/ 7P/ 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.