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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2025

PRESENT

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRL.OP(MD). No.2642 of 2025

1.Paramasivam

2.Bharathi

... Petitioners / Accused Nos.1 & 2

Vs.

The State rep by,
The Inspector of Police,
Kallimandayam Police Station,
Dindigul District.
(Crime No.28 of 2025)

... Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 482 of BNSS praying to enlarge the petitioners on anticipatory bail in connection with the case in Crime No.28 of 2025 on the file of the respondent police.

For Petitioners : Mr.K.Shanmuga Raja

For Respondent : Mr.K.Sanjai Gandhi,
Government Advocate
(Criminal Side)



ORDER: The Court made the following order :-

This Criminal Original Petition has been filed by the petitioners on 10.02.2025 under Section 482 of the 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 Sections 303(2) of BNS and 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.28 of 2025 on the file of the respondent-police.

3. The case of the prosecution is that on 04.02.2025, at about 08:00 p.m., the defacto complainant, the Village Administrative Officer, received an information through a phone call that the accused persons were illegally excavating gravel sand using a JCB in a patta land belonging to one Geetha Rani and Karuppasamy and transporting it in a Tipper Lorry bearing No. TN-48-P-9561 to the nearest land and road and they were apprehended by the public. When the defacto complainant arrived at the location, the accused persons had escaped with the JCB, leaving the Tipper Lorry after unloading the sand. Hence, the case.

4. Mr.K.Shanmuga Raja, the learned counsel for the petitioners, submits that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. He, however, submits that the petitioners are ready to abide by



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any conditions to be imposed by this Court. Accordingly, he prays to grant an order of pre-arrest bail to the petitioners.

5. Per contra, Mr.K.Sanjay Gandhi, the learned Government Advocate (Criminal Side) appearing for the respondent police, submits that there are totally 3 accused persons in this case and the petitioners have been arrayed as Accused Nos.1 and 2. He further submits that the accused persons had illegally excavated and transported 4 units gravel sand from the patta land belonging to one Geetha Rani and Karuppasamy. He further submits that there are no previous cases against the petitioners. However, he prays to dismiss this Criminal Original Petition.

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

7. Considering the facts and circumstances of the case, the nature of the offence, the quantity of gravel sand allegedly to have been excavated and transported by the petitioners and also considering the fact that the petitioners have permanent residence and deep roots in the society and therefore, there is less possibility of absconding and taking note of the fact that there are no previous case against the petitioners and also with a view to give an opportunity to the petitioners to reform themselves, this Court is inclined to grant pre-arrest bail to the petitioners. Accordingly, pre-arrest bail is granted to the petitioners subject to the following conditions:



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(i) The petitioners shall be released on pre-arrest bail in the event of their arrest or in the event of their surrender before the learned Judicial Magistrate, Oddanchatram, within a period of 15 days from date on which the order copy is made ready, on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each along with two sureties each for a like sum of Rs.10,000/- (Rupees Ten Thousand only) to the satisfaction of the learned Judicial Magistrate, Oddanchatram.

(ii) 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 Practice, 2019']. The learned Judicial Magistrate shall obtain a copy of any one of identity proofs to ensure their identity.

(iii) The petitioners shall appear and sign before the respondent-police weekly once i.e., on Monday at 10.00 a.m. until further orders.

(iv) The petitioners shall furnish their residential address and mobile number to the concerned Magistrate.

(v) The petitioners shall not, directly or indirectly, cause any threat to the defacto complainant and witnesses and shall not tamper the evidence.

(vi) On breach of any of the aforementioned conditions, the learned Judicial Magistrate or Trial Court, as the case may be, is entitled to pass appropriate orders against the petitioners 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].

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8. Accordingly, this Criminal Original Petition is allowed subject to the conditions stated supra.

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Sub-Assistant Registrar (CS-I/II/III/IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

1 THE JUDICIAL MAGISTRATE,
ODDANCHATRAM.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL DISTRICT.

3 THE INSPECTOR OF POLICE,
KALLIMANDAYAM POLICE STATION,
DINDIGUL DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.K.SHANMUGA RAJA, Advocate (SR-1687[I] dated 14/02/2025)



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ORDER

IN

CRL OP(MD) No.2642 of 2025

Date :13/02/2025

NBF / SKN /SAR-II (19/02/2025) 6P/6C

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