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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.2645 of 2025

1.P.Karthikeyan

2.S.Ganeshan

3.S.Puviyarasan

... Petitioners/ Accused Nos.3 to 5

Vs.

The State of Tamil Nadu,
rep by The Inspector of Police,
Veeracholan Police Station,
Virudhunagar District.
(Crime No.1 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.1 of 2025 on the file of the respondent police.

For Petitioners : Mr.S.Elango, Advocate

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



ORDER: The Court made the following order :-

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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.1 of 2025 on the file of the respondent-police.

3. The case of the prosecution is that on 03.02.2025 at about 02.00 p.m., when the Sub-Inspector of Police along with his team was on patrol duty near Usilangulam Pond, they noticed that with the help of a JCB, certain persons were attempting to smuggle gravel sand from the government land in three tractors along with drivers bearing Registration Nos. TN-67-CZ-6891, TN-65-S-8059 and TN-63-BJ-7863 respectively. On seeing the police, the drivers of the Tractors, after unloading the sand, fled from the place leaving the tractors there. The operator of the JCB excavator was arrested. All the vehicles have been seized. Based on the confession of the operator, the petitioners have been arrayed as A3 to A5. Hence, the complaint.



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4. Mr.S.Elango, 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 and that they have been falsely implicated in this case. He, however, submits that the petitioners are ready to abide by 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 5 accused persons in this case and the petitioners have been arrayed as Accused Nos.3 to 5. He further submits that there are no previous cases against the petitioners. He further submits that Accused No.1 was arrested and released on bail and Accused No.2 was granted pre-arrest bail. However, he prays to dismiss this Criminal Original Petition.

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



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7. Considering the facts and circumstances of the case, the nature of the offence, the quantity of gravel sand alleged to have been excavated 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 cases 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:

(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 District Munsif cum Judicial Magistrate, Thiruchuli, 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.25,000/- (Rupees Twenty Five Thousand only) each along with two sureties each for a like sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the satisfaction of the learned District Munsif cum Judicial Magistrate, Thiruchuli.

(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.



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(iii) The petitioners shall appear and sign before the respondent-police daily 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].

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

Sd/-
13/02/2025

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/02/2025
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO

- 1 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
THIRUCHULI.
- 2 DO-THROUGH- THE CHIEF JUDICIAL MAGISTRATE
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
- 3 THE INSPECTOR OF POLICE,
VEERACHOLAN POLICE STATION,
VIRUDHUNAGAR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.S.ELANGO, Advocate (SR-1635[I] dated 14/02/2025)

ORDER
IN

CRL OP(MD) No.2645 of 2025
Date :13/02/2025

ES/SKN/SAR-1/19.02.2025/6P/6C

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