



CRL.OP(MD). No.2728 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2025

PRESENT

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRL.OP(MD). No.2728 of 2025

1.Anwarraja @ Chinasamy

2.Dhanush

3.Bharath Kumar

... Petitioners / Accused Nos.1 to 3

Vs.

The State of Tamil Nadu rep by
The Inspector of Police,
Saptur Police Station,
Madurai District.
(Crime No.20 of 2025)

... Respondent / Complainant

PRAYER :- The Criminal Original Petition filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 praying to grant pre-arrest bail to the petitioners in Crime No.20 of 2025 on the file of the respondent-police.

For Petitioners : Mr.B.Anandan, Advocate

For Respondent : Mr.S.S.Manoj,
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.



CRL.OP(MD). No.2728 of 2025

WEB COPY

2. The petitioners apprehend arrest at the hands of the respondent police for the offences punishable under Sections 303(2) of BNS r/w. 21(5) of Mines and Minerals Act, 1957, in Crime No.20 of 2025 on the file of the respondent-police.

3. The case of the prosecution is that on 30.01.2025 at about 11.30 p.m., based on the secret information, the defacto complainant, the Village Administrative Officer along with the police, reached V.Ramasampuram, Ethinamalai, they found that the accused persons were illegally excavating *sand* using a JCB bearing TN-58-AT-6204 in a patta land belonging to one Dharma and transporting it in a tractor bearing No.TN-55-AJ-5747. On seeing the police, the accused persons fled away from the scene of occurrence by unloading the sand into the nearby river, leaving the said vehicles into the forest. Hence, the case.

4. Mr.B.Anandan, 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 a false case has been 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.



CRL.OP(MD). No.2728 of 2025

WEB COPY

5. *Per contra*, Mr.S.S.Manoj, the learned Government Advocate (Criminal Side) appearing for the respondent police, submits that the petitioners have been arrayed as Accused Nos.1 to 3. He further submits that there are 17 previous cases against the first petitioner, who is the owner of the JCB, and there are no previous cases against the second and third petitioners. He further submits that the accused persons had illegally excavated and transported *sand* from the patta land belong to one Dharma. Accordingly, he prays to dismiss this Criminal Original Petition.

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

7. Since this Court was not inclined to grant pre-arrest bail to the first petitioner, considering the previous cases pending against him, the learned counsel for the petitioner sought permission of this Court to withdraw the petition insofar as the first petitioner is concerned. However, as regards the second and third petitioners, this petition survives.

8. The second and third petitioners have permanent residence and deep roots in the society. Hence, there is less possibility of absconding. Considering the same and also considering the nature of the offence alleged against the second and third



CRL.OP(MD). No.2728 of 2025

WEB COPY

petitioners and the quantity of *sand* allegedly excavated and transported by the petitioners and taking note of the fact that there are no previous case against the second and third 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 second and third petitioners. Accordingly, pre-arrest bail is granted to the second and third petitioners subject to the following conditions:

(i) The second and third 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, Peraiyur, Madurai District, 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, Peraiyur, Madurai District.

(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 District Munsif cum Judicial Magistrate shall obtain a copy of any one of identity proofs to ensure their identity.



CRL.OP(MD). No.2728 of 2025

WEB COPY

(iii) The second and third petitioners shall appear and sign before the respondent-police daily at 10.00 a.m. until further orders.

(iv) The second and third petitioners shall make themselves available for interrogation by a police officer as and when required.

(v) The second and third petitioners 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.

(vi) The second and third petitioners shall not leave either Tamil Nadu or India without the previous permission of the Court.

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

(viii) 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



CRL.OP(MD). No.2728 of 2025

WEB COPY

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]*.

9. Accordingly, this Criminal Original Petition is dismissed as not pressed insofar as the first petitioner is concerned and is allowed insofar as the second and third petitioners are concerned subject to the conditions stated *supra*.

sd/-
13/02/2025

/ TRUE COPY /

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

PAL

TO

- 1 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, PERAIYUR, MADURAI DISTRICT.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.
- 3 THE INSPECTOR OF POLICE,,
SAPTUR POLICE STATION,
MADURAI DISTRICT.



CRL.OP(MD). No.2728 of 2025

WEB COPY

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

+1 CC to M/s.B.ANANDAN, Advocate (SR-1704[I] dated 17/02/2025)

ORDER

IN

CRL OP(MD) No.2728 of 2025

Date :13/02/2025

SS/SKN/SAR- /21/02/2025/ 7P/6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023