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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.2716 of 2025

Thangamuniyandi

... Petitioner / Sole Accused

Vs.

The State rep by,
The Inspector of Police,
Seithur Police Station,
Virudhunagar District.
(Crime No.41 of 2025)

... Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 482 of BNSS praying to enlarge the petitioner on anticipatory bail in connection with the case in Crime No.41 of 2025 on the file of the respondent police.

For Petitioner : Mr.S.Maya Perumal

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 petitioner 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 petitioner apprehends arrest at the hands of the respondent-police for the offences punishable under Sections 303(2) of BNS and 21(4) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.41 of 2025 on the file of the respondent-police.

3. The case of the prosecution is that on 25.01.2025, at about 19:00 hours, while the defacto complainant, a Special Sub-Inspector of Police, along with his team, was on regular patrol duty near Aadhiputhira Ayyanar Temple, they found the petitioner illegally excavating sand from the canal and transporting it in four bags using a two-wheeler bearing Registration No.TN-67-AZ-8726. On seeing the police, the petitioner fled from the scene, leaving the vehicle and sand behind. The vehicle, along with the sand, was seized. Hence, the case.

4. Mr.S.Maya Perumal, the learned counsel for the petitioner, submits that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution and a false case been registered against the petitioner. He further submits that the petitioner is 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 petitioner.

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5. Per contra, Mr.K.Sanjay Gandhi, the learned Government Advocate (Criminal Side) appearing for the respondent-police, submits that there are no previous cases against the petitioner. He further submits that the petitioner has illegally excavated and transported 4 bags of river sand without any valid permission. Accordingly, 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 and the nature of the offence and the quantity of river sand alleged to have been excavated and transported by the petitioner and also considering the fact that the petitioner has 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 petitioner and with a view to give an opportunity to the petitioner to reform himself, this Court is inclined to grant pre-arrest bail to the petitioner. Accordingly, pre-arrest bail is granted to the petitioner subject to the following conditions:

(i) The petitioner shall be released on pre-arrest bail in the event of his arrest or in the event of his surrender before the learned Judicial Magistrate, Rajapalayam, Virudhunagar District, within a period of 15 days from date on which the order copy



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is made ready, on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) 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, Rajapalayam, Virudhunagar 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 Judicial Magistrate shall obtain a copy of any one of identity proofs to ensure their identity.

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

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

(v) The petitioner 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 petitioner 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/-
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/02/2025
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,
RAJAPALAYAM,
VIRUDHUNAGAR DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

3 THE INSPECTOR OF POLICE,
SEITHUR POLICE STATION,
VIRUDHUNAGAR DISTRICT.

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

+1 CC to M/s.S.MAYAPERUMAL, Advocate (SR-1623[I] dated 13/02/2025)



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ORDER

IN

CRL OP(MD) No.2716 of 2025

Date :13/02/2025

NBF / SKN /SAR-II (19/02/2025) 6P/5C

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