

CRL.OP(MD). No.4125 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.03.2025

PRESENT

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRL.OP(MD). No.4125 of 2025

Kottaisamy

... Petitioner / Accused No.4

Vs.

The State of Tamil Nadu rep by
The Inspector of Police,
Kayathar Police Station,
Thoothukudi District.
(Crime No.412 of 2024)

... Respondent / Complainant

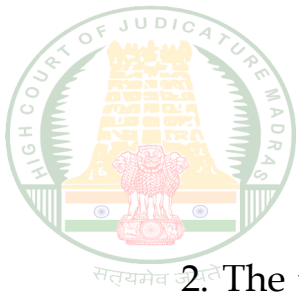
PRAYER :- The Criminal Original Petition filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 praying to grant pre-arrest bail to the petitioner in Crime No.412 of 2024 on the file of the respondent-police.

For Petitioner : Mr.S.Balaji,
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 petitioner on 03.03.2025 under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying to grant an order of pre-arrest bail.



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2. The petitioner apprehends arrest at the hands of the respondent-police for the offences punishable under Sections 303(2) of BNS, 2023 and 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.412 of 2024 on the file of the respondent-police.

3. The case of the prosecution is that on 28.12.2024 at about 06.30 p.m., when the respondent-police was on patrol duty, they found that the petitioner along with other accused persons was illegally excavating and transporting 3 units of *saralai sand* by using two lorries and one JCB bearing Reg.Nos.TN-72-BL-3913, Reg.No.TN-10-R-2904 and Reg.No.TN-75-R-5392 respectively without any valid permit. Hence, the case .

4. Mr.S.Balaji, 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. He further submits that the petitioner is only the owner of the vehicle. He however 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.

5. *Per contra*, Mr.S.S.Manoj, the learned Government Advocate (Criminal Side) appearing for the respondent police, submits that there are totally four accused persons in this case and the petitioner has been arrayed as A4. He further submits



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that there are no previous cases against the petitioner and the investigation of the case is still pending. He further submits that if the pre-arrest bail is granted to the petitioner, he commit similar type of offence and cause damage to environmental ecology. Accordingly, he prays to dismiss this Criminal Original Petition.

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

7. The petitioner has permanent residence and deep roots in the society. Hence, there is less possibility of absconding. Considering the same and also considering the facts and circumstances of the case, the nature of the offence, the quantity of *saralai sand* allegedly excavated and transported by the accused persons and taking note of the fact that there are no previous cases 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 No.II, Kovilpatti, Thoothukudi District, 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



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Judicial Magistrate No.II, Kovilpatti, Thoothukudi District.

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(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 learned Judicial Magistrate No.II, Kovilpatti, Thoothukudi District on all working days at 10.00 a.m. and 05.30 p.m. until further orders.

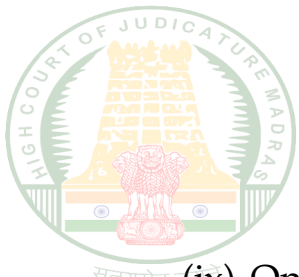
(iv) The petitioner shall make himself available for interrogation by a police officer as and when required.

(v) 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.

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

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

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



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(ix) 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/-

05/03/2025

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/03/2025

Sub Assistant Registrar
(CS - I/II/III/IV)

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To

1.The Judicial Magistrate No.II,
Kovilpatti,
Thoothukudi District.

2.Do Through
The Chief Judicial Magistrate,
Thoothukudi District.

3.The Inspector of Police,
Kayathar Police Station,
Thoothukudi District.



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4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
CRL.OP(MD). No.4125 of 2025
05.03.2025

BV (18/03/2025) 6P/ 5C

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