



CRL OP (MD) No.6409 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 07/04/2025

PRESENT

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

CRL OP (MD) No.6409 of 2025

M.Rajalingam

... Petitioner/ A1

Vs

State of Tamil Nadu rep. by
The Inspector of Police,
Aravakurichi Police Station,
Karur District.
(Crime No. 85 of 2025)

... Respondent/Complainant

For Petitioner : Mr.Gunasekaran.R,
Advocate.

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

PETITION FOR BAIL Under Sec.483 of BNSS

PRAYER :-

For Bail in Crime No.85 of 2025 on the file of the respondent-police.



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ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioner on 03.04.2025 under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying to grant bail.

2. The petitioner/ Accused No.1 was arrested and remanded to judicial custody on 25.03.2025 for the offences punishable under Section 303(2) of BNS, 2023 and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.85 of 2025 on the file of the respondent-police.

3. The case of the prosecution is that, on 25.03.2025, at about 22:00 hours, based on a complaint given by the Assistant Director, Flying Force, Geology and Mining, Trichy Zone, Trichy, and the Assistant Geologist, the respondent-police registered a case against the petitioner and others. In the complaint, it has been stated that while the aforesaid officials were conducting vehicle check-up near Thirumanikkampatti Village, Aravakurichi Taluk, they found that the petitioner and other accused were illegally transporting six units of gravel sand in a Taurus Lorry bearing Registration No.TN-47-AH-9132, without any valid license or permission. The value of the gravel



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sand is Rs.3,888/-. During the inspection, the driver of the lorry escaped from the spot. The officials seized the vehicle along with the gravel sand and handed it over to the respondent-police. Hence, the case.

4. Mr.R.Gunasekaran, learned counsel appearing for the petitioner, submits that the petitioner has nothing to do with the alleged offence and that a false case has been foisted against the petitioner. He however submits that the petitioner is ready to abide by any conditions that may be imposed by this Court. He further submits that the petitioner has been in incarceration since 25.03.2025. He further submits that the respondent-police has no right to register the case under Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957. He further submits that the alleged offence under Section 303(2) of BNS is bailable in nature, since the value of the minerals is less than Rs.5,000/-. Therefore, he prays for granting bail to the petitioner.

5. *Per contra*, Mr.K.Sanjai Gandhi, learned Government Advocate (Criminal Side) appearing for the respondent-police, submits that the petitioner and other accused illegally transported six units of gravel sand. He further submits that the petitioner has one previous case, which is not similar in nature. He however submits



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that if bail is granted to the petitioner, he may abscond and delay the investigation proceeding. Therefore, he vehemently opposes to grant bail to the petitioner.

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

7. In the present case, the defacto complainant is none other than the Assistant Director, Flying Squad, Department of Geology and Mining, Trichy Zone, Trichy. He has himself stated that the value of the allegedly transported minerals is Rs.3,888/-. In these circumstances, the offence under Section 303(2) of the Bharatiya Nyaya Sanhita, 2023, is Non-cognizable and bailable as per the First Schedule of BNSS, 2023. Therefore, the respondent-police has no power or authority to register an FIR for the offence punishable under Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957, in view of the bar under Section 22 of the said Act. It is apposite to extract Section 22 of the Act, which reads as under:

“ 22. Cognizance of offences.- No court shall take cognizance of any offence punishable under this Act or any rules made thereunder except upon complaint in writing made by a person authorised in this behalf by the Central Government or the State Government.”

7.1. However, it is seen that, invariably, throughout the State of Tamil Nadu, the



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police are registering FIRs under Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957, despite the statutory bar under Section 22 of the said Act. It is also pertinent to note that the offence under Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957 is compoundable in nature. It is further learnt that, *vide* G.O.Ms.No.12, Industries (MMC1) Department, dated 02.02.2009, police personnel not below the rank of Inspector of Police have been authorised to file complaints under Section 22 of the said Act. However, for reasons best known to them, the police are reluctant to invoke the proper procedure under the law. See (i) *Pradeep S.Wodeyar vs. State of Karnataka*, reported in (2021) 19 SCC 62, (ii) *Sengol and others Vs. State rep. by the Inspector of Police, R.S.Mangalam Police Station and others*, reported in 2012 (2) CTC 369, (iii) *Annadurai Vs. The Inspector of Police, Kurisilapet Police Station* (2024:MHC:380)].

7.2. As far as the present case is concerned, since the total value of the minerals is below Rs.5,000/-, the offence under Section 303(2) of the Bharatiya Nyaya Sanhita, 2023, is Non-cognizable and bailable in nature. This aspect was not brought to the notice of the learned Principal District Judge, Karur. If it was brought to his notice, the learned Principal District Judge might have granted bail. Considering the above, and also considering the stage of investigation and the fact that the petitioner has



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permanent residence and deep roots in the society, and therefore, there is less possibility of absconding, and taking note of the fact that the vehicle along with gravel sand has been seized, and with a view to give an opportunity to the petitioner to reform himself, this Court is inclined to grant an order of bail to the petitioner, however, subject to the following conditions:

(i) The petitioner shall execute a bond for 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 District Munsif Cum Judicial Magistrate, Aravakurichi, Karuri 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, Aravakurichi, Karuri District, shall obtain a copy of any one of identity proofs to ensure their identity;

(iii) The petitioner shall furnish his residential address and mobile number to the learned District Munsif Cum Judicial Magistrate, Aravakurichi, Karuri District;



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(iv) The petitioner shall appear and sign before the respondent-police as and when required for interrogation;

(v) The petitioner shall attend in accordance with the conditions of the bond to be executed under Chapter XXXV of BNS, 2023;

(vi) The petitioner shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected;

(vii) 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 or tamper with the evidence; and

(viii) On breach of any of the aforementioned conditions, the learned District Munsif Cum Judicial Magistrate, Aravakurichi, Karuri District, 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].



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

9. In view of FIR in Crime No.85 of 2025, this Court issues direction to the District Collector, Karur District, and the Superintendent of Police, Karur District, to file a report pertaining to the registration of Crime No.85 of 2025 on **22.04.2025**. List the matter on **22.04.2025**, for filing report.

sd/-
07/04/2025

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07/04/2025
Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSG

TO

- 1 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, ARAVAKURICHI, KARUR DISTRICT.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
KARUR DISTRICT.
- 3 THE INSPECTOR OF POLICE,
ARAVAKURICHI POLICE STATION,
KARUR DISTRICT.



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4 THE OFFICER INCHARGE
SUB JAIL, KARUR.

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

COPY TO:

1 THE DISTRICT COLLECTOR
KARUR DISTRICT

2 THE SUPERINTENDENT OF POLICE,
KARUR DISTRICT.

+1 CC to M/s.R.GUNASEKARAN, Advocate (SR-3991[I] dated 07/04/2025)

ORDER
IN
CRL OP(MD) No.6409 of 2025
Date :07/04/2025

SS/SAR- /07/04/2025/ 9P/9C

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