



CRL.OP(MD).No.13073 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2025

PRESENT

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRL.OP(MD).No.13073 of 2024

Remya @ Ramya

... Petitioner / Accused No.2

Vs.

The State of Tamil Nadu rep by
The Inspector of Police,
Kottar Police Station,
Kanyakumari District.
(Crime No.55 of 2023)

... 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.55 of 2023 on the file of the respondent-police.

For Petitioner : Mr.R.Premanandhan,
Advocate.
For Respondent : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor

ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioner on 07.08.2024

<https://www.mhc.tn.gov.in/judis> under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying



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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 offence punishable under Section 420 of Indian Penal Code, 1860, in Crime No.55 of 2023 on the file of the respondent-police.

3. The case of the prosecution is that the petitioner's husband is running the Medical Agency in Zambia and the defacto complainant had applied for the job in that company. For which, A1 asked Rs.3,00,000/- for Visa and other travel charges to travel to Zambia and as per the request of A1, the defacto complainant gave Rs.3,00,000/- to the petitioner. Further, the defacto complainant transferred Rs.30,147/- for flight charges to the petitioner and also deposited Rs.95,000/- to the petitioner's account. Thereafter, the petitioner and A1 cheated the defacto complainant. Hence, the case.

4. The petition filed by the petitioner was already allowed by this Court on 09.08.2024. The relevant portions are extracted hereunder:

“4.Considering the nature of allegations that the petitioner and her husband were involved in a job racket promising to get job abroad, considering the fact that the petitioner actually got a visa approval and tried to take them abroad and since the flight got missed, the victims have to return and also considering the overall facts and circumstances of the case and the argument of the learned counsel for the petitioner's undertaking to deposit a sum of Rs.1,50,000/- to show her bonafide, I



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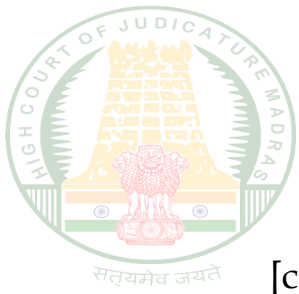
am inclined to enlarge the petitioner on anticipatory bail with certain conditions.

5.As undertaken by her, the petitioner shall deposit a sum of Rs.1,50,000/- (Rupees One lakh and Fifty Thousand only) to the credit of Crime No.55 of 2023 before the learned Judicial Magistrate No.2, Nagercoil, without prejudice to her rights and contentions.

6.On such deposit being made, the petitioner is ordered to be released on anticipatory bail in the event of arrest or on his appearance, within a period of four weeks from the date on which the order copy made ready, before the learned Judicial Magistrate, No.2, Nagercoil, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity.

[b] the petitioner shall report before the respondent Police, daily at 10.30 a.m., for a period of three weeks and thereafter, as and when required for interrogation. It is made clear that no relaxation of the condition for the said period will be entertained by this court.



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[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A BNS."

5. The petitioner has not complied with the order dated 09.08.2024 of this Court despite having given an undertaking. Thereafter, the petitioner filed Criminal Appeal No. 4939 of 2024 before the Hon'ble Apex Court, seeking condonation of delay and rectification of defects. The appeal was allowed on 02.12.2024, directing this Court to reconsider the application for the grant of pre-arrest bail afresh. The relevant portions are extracted hereunder:

"Delay condoned.

Leave granted.

Heard the learned counsel appearing for the appellant.

Paragraph 4 of the impugned order reads thus:

<https://www.mhc.tn.gov.in/judis>



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"Considering the nature of allegations that the petitioner and her husband were involved in a job racket promising to get job abroad, considering the fact that the petitioner actually got a visa approval and tried to take them abroad and since the flight got missed, the victims have to return and also considering the overall facts and circumstances of the case and the argument of the learned counsel for the petitioner's undertaking to deposit a sum of Rs.1,50,000/- to show her bonafide, I am inclined to enlarge the petitioner on anticipatory bail with certain conditions."

(underline supplied)

Now, the appellant wants to back out from her undertaking. Therefore, we set aside the impugned order dated 9th August, 2024 passed by the High Court and direct the High Court to consider the application for grant of anticipatory bail afresh.

We make it clear that while considering the application, the High Court will take a note of the conduct of the appellant of not complying with her own undertaking.

The appeal is allowed on the above terms."

6. Mr.R.Premanandhan, the learned counsel for the petitioner, submits that the petitioner is ready and willing to deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs only) in the Crime No.55 of 2023 on the file of the respondent-police before the learned Judicial Magistrate No.II, Nagercoil, Kanyakumari District. He also submits that the petitioner is ready to abide by any conditions imposed by this Court and



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accordingly, he prays for the grant of pre-arrest bail.

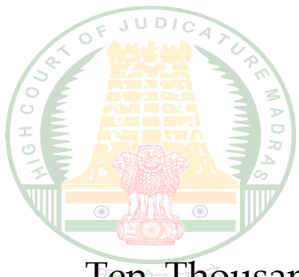
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7. Per contra, Mr.R.Meenakshi Sundaram, the learned Additional Public Prosecutor appearing for the respondent-police, submits that the petitioner and her husband were involved in a job racket promising to get job abroad. He therefore contends that if pre-arrest bail is granted to the petitioner, she will cause threat to the defacto complainant and tamper with the evidence. Therefore, he submits that custodial interrogation of the petitioner is necessary in this case. Accordingly, he prays to dismiss this Criminal Original Petition.

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

9. Considering the facts and circumstances of the case and also taking into account that the petitioner is ready to deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs only) and with a view to give one more opportunity to the petitioner to reform herself, 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 her arrest or in the event of her surrender before the learned Judicial Magistrate No.II, Nagercoil, Kanyakumari 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.10,000/- (Rupees



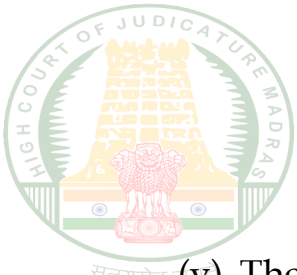
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Ten Thousand only) along with two sureties each for a like sum of Rs.10,000/-
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(Rupees Ten Thousand only) to the satisfaction of the learned Judicial Magistrate
No.II, Nagercoil, Kanyakumari District.

(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 deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs
only) to the credit of the Crime No.55 of 2023 on the file of the respondent-police,
before the learned Judicial Magistrate No.II, Nagercoil, Kanyakumari District,
within a period of one month from the date of receipt of a copy of this order. In turn,
the learned Judicial Magistrate shall deposit the said amount in an interest bearing
Fixed Deposit in any nationalized Bank initially for a period of one year and renew
them periodically until the final order / judgment is passed in the case in Crime
No.55 of 2023. The learned Judicial Magistrate or Trial Court shall pass orders qua
entitlement of the said amount in its final order / Judgment.

(iv) The petitioner shall appear and sign before the respondent-police daily at
10.00 a.m. until further orders.



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

(vi) 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.

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

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

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

(x) The petitioner shall not enter into the defacto complainant's house or his/her work place.

(xi) 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].



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

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/03/2025
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 JUDICIAL MAGISTRATE NO.II
NAGERCOIL, KANYAKUMARI DISTRICT.

2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE, KANYAKUMARI
DISTRICT.

3.THE INSPECTOR OF POLICE,
KOTTAR POLICE STATION,
KANYAKUMARI DISTRICT.

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



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ORDER
IN
CRL OP(MD) No.13073 of 2024
Date :26/03/2025

MK/SAR /27.03.2025 10P/5C

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