



Crl.OP.No.1582 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 09.04.2025

CORAM

THE HONOURABLE MR JUSTICE SUNDER MOHAN

CRL OP NO. 1582 of 2025

Bhuvana @ Bhuvaneswari

Petitioner/Accused

Vs

State Rep By,
The Inspector Of Police
CBCID Chennai.

Respondent/Complainant

PRAYER: This Criminal Original Petition is filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 to enlarge the petitioner / Accused on anticipatory bail in the event of arrest in Crime No.618 of 2008 pending on the file of the respondent police.

For Petitioner(s):

M/s.Annakkodi Annakkodi

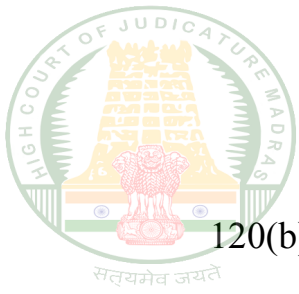
For Respondent(s):

Mr.S.Balaji

Government Advocate (Crl.Side)

ORDER

The petitioner, who was originally arrayed as the eighth accused in the final report filed by the respondent for the offences under Sections



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120(b), 147, 148, 149, 302, 506(ii) r/w 341 of the IPC was not apprehended during the course of the investigation. An absconding final report was filed against her as she was at Dubai at the time of filing of the final report. The case against her was split up, and the co-accused were tried and convicted by the trial Court. On appeal, the first and the seventh accused were acquitted and the judgment of the trial Court convicting the remaining accused were confirmed. Apprehending arrest, she has now filed this petition.

2. (i) The learned counsel for the petitioner submitted that the petitioner, who is at Dubai, was questioned by the immigration authorities in the United Arab Emirates (UAE) and her passport was seized. According to the learned counsel for the petitioner, the petitioner was not aware of the fact that she was made an accused and that a warrant and a proclamation proceedings were issued against her. He further submitted that the petitioner is willing to appear and face the trial, and considering the fact that the alleged occurrence took place in the year 2008, he submitted that custodial interrogation may not be required.



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(ii) The learned counsel for the petitioner further submitted that the petitioner would co-operate with the trial and that the evidence recorded by the prosecution so far can be read as evidence against the petitioner; that the petitioner may only be permitted to cross examine certain witnesses and produce any witnesses on her side, if necessary; and that the petitioner has filed an affidavit to that effect.

(iii) The learned counsel therefore submitted that since her passport has now been seized by the immigration authorities in UAE, she cannot enter the country and prayed for anticipatory bail to enable her to enter the country and face the trial.

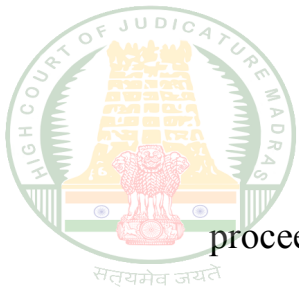
3. (i) The learned Government Advocate (Crl.Side) on instructions, confirmed the fact that on appeal, the first and seventh accused were acquitted by this Court, and the State has preferred an appeal before the Hon'ble Supreme Court of India, which is pending. He further submitted that the petitioner was one of the main conspirators along with the first and second accused, and she was the mastermind behind the occurrence, and



that there is evidence to show that she interacted with the third accused who was one of the assailants and had engaged the third accused to commit the offences.

(ii) The learned Government Advocate further submitted that pursuant to the Red Corner notice issued through the CBI, New Delhi, to execute a Non-Bailable Warrant against the petitioner, the petitioner was arrested in Abu Dhabi; that extradition documents were submitted to the Ministry of External Affairs, New Delhi on 20.06.2010 and an arabic version were sent on 08.07.2010; that the respondent received a letter from the Ministry through the CBI dated 28.02.2012; that the Indian Embassy had informed that the petitioner could not be extradited from UAE, as there was no data; and that since the petitioner is a proclaimed offender and is absconding for nearly 18 years, the petitioner may not be granted anticipatory bail.

(iii) The learned Government Advocate further fairly on instructions submitted that the respondents were unable to succeed in the extradition



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proceedings so far. The learned Government Advocate also submitted that though the petitioner has filed an affidavit to the effect that the evidence already recorded in respect of the co-accused, may be read as evidence against her, the right of the prosecution to examine more witnesses or to re-examine already examined witnesses, cannot be curtailed.

4. This Court has carefully considered the rival submissions and perused the record.

5. It is not in dispute that the petitioner was shown as absconding accused and she was treated as a proclaimed offender. It is also not in dispute that the petitioner was not arrested during the course of investigation as she was in Dubai and that an absconding final report was filed by the respondent. According to the petitioner, she came to know that she was made as an accused only when she was questioned by the immigration authorities in the UAE, though the said fact is disputed by the State.



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6. From the submissions made by the learned Government Advocate and the counter filed by the respondent, it is seen that though the respondent has taken efforts to extradite the petitioner they were unable to do so, so far. The petitioner has to be tried, as even according to the prosecution, she had played an active role.

7. The counter further indicates that the respondent would be unable to complete the extradition process. Therefore, this Court is of the view that anticipatory bail can be granted to the petitioner, which would ensure her presence and participation in the trial that has to be conducted. The Hon'ble Supreme Court in *Asha Dubey vs. State of Madhya Pradesh* [Crl.A.No.4564 of 2024 (@ SLP (Crl.) No.13123 of 2024 decided on 12.11.2024] had held as follows:

“7. Considering the facts and circumstances of the case, we are of the view that the custodial interrogation of the appellant is not required.

8. Coming to the consideration of anticipatory bail, in the event of the declaration under Section 82 of the Cr.P.C., it is not as if in all cases that there will be a total embargo on considering the application for the grant of anticipatory bail.”



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8. In this case admittedly, the investigation has now been completed and in fact some of the accused were tried and the trial also has been concluded. Therefore, custodial interrogation of the petitioner is not required.

9. At the same time, since the case was filed in the year 2008 and the prosecution had examined all the witnesses and some of them would not be available to give evidence for various reasons, this Court in order to avoid any prejudice being caused to the prosecution suggested that the petitioner files an affidavit that the evidence of the witnesses examined during the trial of the co-accused can be read as the evidence against the petitioner. The petitioner has filed an affidavit, the relevant portion of which reads as follows:

“6. In the above mentioned S.C.No.73 of 2009 witnesses were examined and Ex.P1 to P119 were marked. On the defence side D1 to D14 were marked and MO1 to MO34 were also marked in this case.

7. I submit that I will confine myself to the witnesses already examined in the case in S.C.No.73/2009 and if any necessity need arises to prove my innocence, I may be permitted to recall and cross examine only the witnesses who have already deposed against me in S.C.No.73/2009.”



WEB COPY 10. Though the affidavit conveys the same meaning, this Court had directed the learned counsel for the petitioner to file a better affidavit and the learned counsel on instructions, undertook to file a better affidavit before the trial Court making it clear that the evidence already recorded in the trial against the co-accused can be read as evidence against the petitioner.

11. However, the above said course should neither prejudice the prosecution nor the defence. Therefore, it is open to the prosecution to examine any further witnesses that may be required or / and re-examine witnesses already examined, to elicit further facts. It is also open to the petitioner to cross examine any witness and examine witness on her behalf, if necessary.

12. It is further reported by the learned counsel for the petitioner that since the petitioner's passport has been impounded and seized by the immigration authorities in UAE, it may take some time for the petitioner to



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retrieve the same and thereafter travel to India. He also prayed that the respondent may inform the authorities concerned about the orders passed by this Court and the Look Out Circular may also be suspended to enable the petitioner to travel to India.

13. In view of the same, the respondent shall inform the authorities concerned about the order passed by this Court. The Look Out Circular issued by the respondent shall stand suspended to enable the petitioner to travel to India.

14. Considering all the aforesaid facts and circumstances, this Court is of the view that the petitioner can be released on anticipatory bail, on certain stringent conditions.

15. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date of arrival into India, before the **learned XXIII Metropolitan Magistrate, Saidapet**, on condition that the petitioner shall execute a bond



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for a sum of **Rs.1,00,000/- (Rupees One Lakh only)** with two sureties 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 shall surrender her passport to the respondent on arrival.

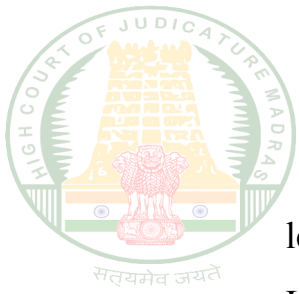
[b] The petitioner shall file a better affidavit as aforesaid, besides undertaking to stay at Chennai and to appear before the trial Court on all hearing dates.

[c] 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.

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

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

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the Petitioners in accordance with law as if the conditions have been imposed and the Petitioners released on bail by the



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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]**;

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 BNS.

09.04.2025

Index : Yes / No

Internet : Yes / No

dpa/ars

To

- 1.The Inspector Of Police
CBCID Chennai.
- 2.The learned XXIII Metropolitan Magistrate,
Saidapet.
- 3.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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