IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2025

CORAM

THE HON'BLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.8858 of 2025

R.Munirathinam .. Petitioner

Vs.

The State rep by
The Inspector of Police,
Central Crime Branch,
Salem City, Salem District.
(Crime No.1 of 2025) .. Respondent

M.G.Ramachandran .. Defacto complainant

[Permitted to intervene vide order of this Court [SMJ] dated 26.03.2025 made in Crl.M.P.No.6172 of 2025 in Crl.O.P.No.8858 of 2025]

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, pleased to enlarge the petitioner on bail, in connection with the Crime No.1 of 2025, pending investigation on the file of the respondent Police.

For Petitioner : M/s.D.Shivakumaran

For Respondent : Ms.J.R.Archana
Government Advocate(Crl.Side)

For Intervenor : Mr.D.Carounagarane

ORDER

This Criminal Original Petition has been filed by the petitioner, who was arrested and remanded to judicial custody on 04.03.2025, seeking bail in Crime No.1 of 2025 registered for the offence under Sections 406, 420, 120B, 109, 468 and 506(1) of IPC

2. It is the case of the defacto complainant that he came to know the petitioner through a common friend in January 2018; that the accused Nos.2 to 5 along with the petitioner had represented to the defacto complainant that they would start a school and they would include the defacto complainant as a partner and induced him to pay a huge sum; that later in the month of July 2018, the petitioner and the other accused again represented that they were running a Blue Metal company and in order to expand their business they needed a loan of Rs.3,50,00,000/-; that believing the representation the defacto complainant paid Rs.3,13,00,000/- as loan; that the other accused had also executed a document acknowledging the receipt of loan and thereafter brainwashed the defacto complainant and made him to invest Rs.2,60,00,000/- in the quarry business; that thereafter, the defacto complainant paid Rs.3 Crores, Rs.10 Crores and Rs.10 Crores on the

promise that he will be included as partner in the quarry business and a further sum of Rs.5,33,00,000/- by way of cash towards investment in the quarry business and towards royalty; that after receiving the aforesaid amounts till July 2019, the other accused neither repaid the money nor paid the royalty money or the profit in the business and thus cheated the defacto complainant to the tune of Rs.38,73,00,000/-.

3. (i) The learned counsel for the petitioners submitted that the alleged transactions mentioned by the defacto complainant pertain to the years 2018 and 2019; that the documents relied upon by the defacto complainant to prove the loan and other transactions were forged by the defacto complainant; that the mortgage deed dated 13.10.2018 was executed on a Stamp Paper which was purchased on 16.11.2018; and that the Royalty agreement dated 31.03.2019 was fabricated on a stamp paper purchased on 01.06.2019, which falsifies the case of the defacto complainant.

(ii) The learned counsel further submitted that the petitioner and third accused had issued cheques to the defacto complainant and 16 cases were compounded in respect of a portion of the admitted loan of Rs.1.36 Crores; that in respect of six cases for a claim of Rs.28,68,00,000/- the trial is pending; that a civil suit was filed by the other accused against the defacto complainant and others for permanent injunction restraining the defacto complainant and others from entering in the property in which the petitioner is running the school; and that an arbitration proceedings was initiated and an award was passed on 27.04.2023 in respect of the same transaction and the claim made by the defacto complainant was dismissed by the arbitrator.

(iii). The learned counsel further submitted that similar complaint was lodged before the Inspector of Police, Kadathur Police Station and the said complaint was closed on 07.01.2024 and thereafter the instant FIR was lodged suppressing all the above facts

4. The Learned counsel appearing for the defacto complainant opposed the grant of bail stating that certain issues were left unresolved in the Arbitration award, and the Arbitrator did not deal with all the issues raised in the complaint and thereafter, the defacto complainant was justified in lodging the complaint. He also further submitted that the petitioner along with other accused had cheated the defacto complainant a total sum of Rs.33 Crores by making several false representations.

5. Learned Government Advocate (Crl.Side) appearing for the respondent police while opposing the grant of bail, reiterated the prosecution case and confirmed the fact that the transactions between the petitioner and the defacto complainant took place in the years 2018 and 2019 and the respondent were not aware of the civil proceedings pending between the parties.

6. Admittedly, according to the defacto complainant all these monetary transactions were made pursuant to the agreements and documents executed by the petitioners. Though the transactions took place in the year 2019, surprisingly the defacto complainant had not taken any action on the alleged cheating till 2025.

7. Be that as it may, the defacto complainant has also suppressed the fact that an arbitration award in V.P.No.1 of 2020 in O.P.No.79 of 2020 was passed on 27.04.2023 by the Arbitrator appointed by this Court, dismissing the claim petition of the defacto complainant. The claim before the Arbitrator is exactly the same as the averments made in the FIR. Further, the fact that a suit has been filed by the petitioner in OS No.38 of 2024 on

the file of the District Munsif Court, Pappireddipatti, for a permanent injunction restraining the defacto complainant and other from interfering in the peaceful possession of the suit schedule properties and from interfering in the affairs of the Trust, has also been suppressed.

8. This Court, while entertaining the anticipatory bail application filed by the co-accused, had made following observations:

> *"The defacto complainant and the first respondent have clearly abused the process of law, which cannot be countenanced. The first respondent's claim that they were unaware of the various proceedings and the orders cannot be accepted. The entire exercise has been done to arm twist the petitioners. In any case, this Court is of the view that custodial interrogation of the petitioners is not required and is inclined to grant anticipatory bail on the following conditions."*

9. The above observations would squarely applicable to the petitioner as well. Considering the aforesaid facts and since further custody of the petitioner is not required for the purpose of investigation, this Court is inclined to grant bail to the petitioner with certain conditions.

10. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.15,000/- (Rupees Fifteen Thousand only)** with **two sureties,** each for a like sum to the satisfaction of the **Judicial Magistrate Court No.II, Salem,** and on further conditions that:

[a] 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, as and when required for interrogation.

[c] the petitioner shall not abscond either during investigation or trial;

[d] the petitioner shall not tamper with evidence or witness 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 269 B.N.S.

11. As stated earlier, the defacto complainant and the respondent have abused the process of law by entertaining the complaint, which not only discloses disputes of a civil nature but also suppresses certain vital facts, which ought to have been mentioned in the complaint. Hence, considering the above facts, this court is inclined to pass certain consequential orders.

12. Prima facie, this Court is of the view that the Inspector of Police has effected the arrest in violation of the judgment of the Hon'ble Supreme Court in the case of ***Arnesh Kumar Vs. State of Bihar & Anr.*** *r*eported in ***(2014) 8 SCC 273,*** which would not only make him liable for departmental action but also for contempt of court.

13. The defacto complainant, who had suppressed vital facts and misused the process of law, is liable to pay cost of Rs.2,50,000/- to the **"District legal Services Authority, Salem"** within a period of four weeks from the date of receipt of a copy of this order.

14. The Inspector of Police, Central Crime Branch, Salem, is directed to be present before this Court to explain the circumstances under

which the arrest was effected, on 09.04.2025. List the matter on **09.04.2025.**

26.03.2025
(2/2)

Index : Yes / No
Internet : Yes / No
dpa

To

1.The Inspector of Police,
Central Crime Branch,
Salem City, Salem District.

2.The Judicial Magistrate Court No.II, Salem.

3.The Superintendent of Prison,
Central Prison, Salem.

4.The Public Prosecutor, High Court, Madras.

SUNDER MOHAN , J.
dpa

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