



Crl.O.P.No.15327 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.05.2025

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THE HON'BLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.15327 of 2025

1. Mathivannan

2. Divya

... Petitioners

Vs.

State Rep. by,
The Inspector of Police,
Sendurai Police Station,
Ariyalur District.

(Crime No.65 of 2025).

... Respondent

PRAYER : Criminal Original Petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, to enlarge the petitioners on bail, in Crime No.65 of 2025, pending investigation on the file of the respondent Police.

For Petitioners : Mr.K.Sasi Kumar

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)



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ORDER

The petitioners, who were arrested and remanded to judicial custody on 21.04.2025 for the offences punishable under Section 194(3)(IV) of BNSS @ Sections 91, 94, 103(1), 238(A) of BNS, in Crime No.65 of 2025 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioners, who are husband and wife respectively, had killed their new born child and left the body half burnt. The case was initially registered under Section 194(3)(IV) of BNSS based on the complaint given by the VAO and later, during the investigation, it was altered to one under Sections 91, 94, 103(1), 238(A) of BNS. Hence the case.

3. The contention of the learned counsel appearing for the petitioners is that the petitioners are innocent persons and they have been arrested based on the complaint given by the VAO. He further submitted that the second petitioner is the wife of the first petitioner and the baby born to the 2nd petitioner was a premature child and died, therefore, the petitioners had burnt the body of the baby nearby their house in the presence of the villagers, whereas, they have been



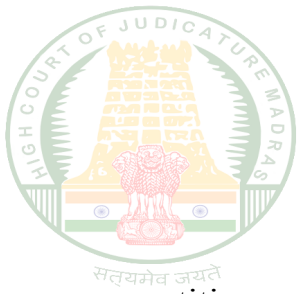
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falsely implicated in this case. He further submitted that the petitioners were arrested on 21.04.2025 and they are ready to abide by any stringent condition that may be imposed by this Court. Hence, he prayed for grant of bail to the petitioners.

4. Learned Government Advocate (Crl. Side) appearing for the respondent police reiterated the prosecution's case and opposed for grant of bail to the petitioners stating that after the second petitioner gave birth to a child, the first petitioner questioned her about the child's birth, as the child has no resemblance to him. Thereafter, the accused had done away with their child and left the body partially burned. He also submitted that the accused had also confessed to the admission of the guilt.

5. Heard both sides and perused the materials available on record.

6. Considering the facts and circumstances of the case, the submission made by the learned counsel appearing on either side and taking note of the fact that the entire case revolves around the extra-judicial confession and period of incarceration suffered by the petitioners, this Court is inclined to grant bail to the



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petitioners with certain conditions.

7. Accordingly, the petitioners are ordered to be released on bail on their executing separate bond each for a sum of **Rs.10,000/- (Rupees Ten Thousand only)** with **two sureties**, each for a like sum to the satisfaction of the learned **District Munsif cum Judicial Magistrate, Sendurai**, and on further conditions that:

[a] the sureties shall affix their photographs and Left Thumb Impression in the Application for Surety ship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Magistrate shall obtain a copy of any one of the identity proofs to ensure their identity;

[b] the petitioners shall report before the respondent Police, everyday at 10.30 a.m., for a period of two weeks and thereafter, as and when required for further interrogation;

[c] the petitioners shall make themselves available for interrogation by a Police Officer as and when required;

[d] the petitioners shall not directly or indirectly cause any threat to the de facto complainant and witnesses;

[e] the petitioners to give an undertaking that if required for being identified by witnesses during investigation or for police custody beyond the first fifteen days, he shall comply to the directions as may be given by the Court in this regard;

[f] On breach of any of the aforementioned conditions, the learned Magistrate/Trial Court is entitled to pass appropriate



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orders against the petitioners in accordance with law as if the aforementioned conditions have been imposed and the petitioners 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)13 SCC 283]**;

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 of B.N.S.

15.05.2025

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Note :

1. Registry is directed to forthwith upload this order in the Official Website of this Court.
2. All concerned to act on this order being uploaded in Official Website of this Court without insisting on certified hard copies. To be noted, this order when uploaded in the official website of this Court will be watermarked and will also have a QR code.

To

1. The District Munsif cum Judicial Magistrate, Sendurai
2. The Inspector of Police,
Sendurai Police Station, Ariyalur District.
3. The Superintendent, Central Prison, Trichy.
4. The Public Prosecutor, High Court of Madras.
5. The Superintendent, Women Prison, Trichy.



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M.NIRMAL KUMAR, J.

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