



Crl.O.P.No.16685 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2025

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.16685 of 2025

Devaraj

... Petitioner

Vs.

State rep. by
The Inspector of Police
All Women Police Station
Avadi

... Respondent

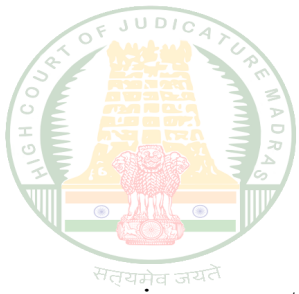
PRAYER : Criminal Original Petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, to enlarge the petitioner on bail in connection with Crime No.8 of 2025 pending investigation on the file of the respondent police.

For Petitioner : Mr.S.Sasikumar

For Respondent : Mr.L.Baskaran
Government Advocate (Crl.Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody on 15.05.2025, for the offences punishable under Sections 498(A), 323, 494 of IPC,

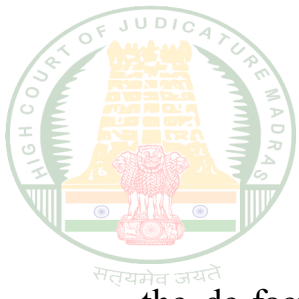


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in connection with Crime No.8 of 2025, registered on the file of the respondent,
seeks bail.

2. The case of the prosecution is that the marriage between the petitioner and the de-facto complainant took place on 18.11.2012 and they had two children. Thereafter, the petitioner started to harass the de-facto complainant and even beaten her demanding money from her parent's house and in the year 2015, he driven out the de-facto complainant from the matrimonial house for which a complaint was lodged. Though the petitioner promised to take care of her during the police enquiry, he once again started to beat the de-facto complainant and thus, she is living separately in her parent's house and whileso, in the year 2022, the de-facto complainant came to know that the petitioner married another lady and had a child, while the 1st marriage was subsisting and committed bigamy. Hence the case.

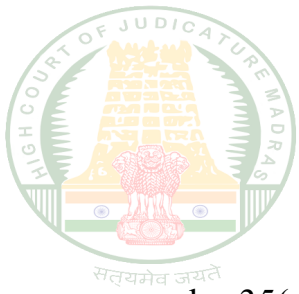
3. The contention of the petitioner is that the marriage between the petitioner and the de-facto complainant took place on 18.11.2012 and after the marriage, they have been living as husband and wife sometime happily and they had two children. Their relationship was stormy. Due to some wordy altercation,



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the de-facto complainant regularly used to go to her parent's house and come again to the matrimonial home till 2015. Thereafter, in the year 2019, the de-facto complainant left the matrimonial home and the petitioner filed HMOP No.621 of 2019 before the Sub Court, Poonamallee for restitution of conjugal rights which was allowed on 30.03.2021. On the contrary, the de-facto complainant filed a domestic violent case in DVC No.19 of 2024 which is pending before the Additional Mahila Court, Chengalpattu. While being so, she lodged a complaint on 08.04.2025 as the petitioner had caused harassment to her and married another lady and living with her in bigamy. The respondent police had not conducted proper enquiry as per the guidelines issued by the Hon'ble Supreme Court in the nature of 498(A) IPC case and mechanically arrested the petitioner. The learned counsel further submitted that the petitioner is suffering incarceration from 15.04.2025 and he is ready to abide by any stringent condition that may be imposed by this Court. Hence, he prayed for grant of bail to the petitioner.

4. Learned Government Advocate (Criminal Side) appearing for the respondent police filed a typed set of papers and produced the CSR No.554 of 2015 dated 29.09.2015, CSR No.236 of 2019 dated 07.06.2019, complaint of the de-facto complainant dated 27.03.2025, copy of the FIR, copy of the summon



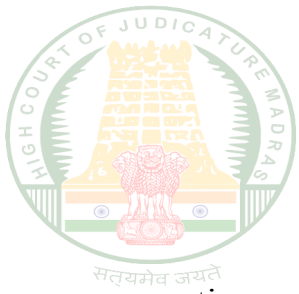
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under 35(vi) BNSS and confession of the accused dated 15.05.2025. He strongly opposed to grant bail to the petitioner.

5. The learned counsel for the petitioner submitted that the petitioner had obtained a copy of the summon under 35(vi) only after his arrest and not prior to it.

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

7. It is proved that the notice itself is a created one and the notice dated 07.05.2025 asking the petitioner to appear on 08.05.2025 itself shows that sufficient opportunity was not given to the petitioner to appear before the respondent. The said notice was given only to justify the arrest made by the respondent in a 498(A) case. Therefore, this Court is not satisfied the manner in which the arrest was made in a matrimonial dispute that too, the matrimonial dispute was going on between the husband and wife nearly a decade. There is no justification or sufficient cause in arresting the petitioner and arrested the petitioner denying him of his life and liberty itself. Despite the Apex Court and the High Courts time and again given guidelines warning the police not to invoke the arbitrary power of arrest in a matrimonial dispute, arrest was made



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continuously in 498(A) cases.

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8. Considering the facts and circumstances of the case, nature of allegations, submissions made by the learned counsels on either side and the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

9. Accordingly, the petitioner is ordered to be released on bail on his executing 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 **learned Judicial Magistrate No.I, Poonamallee**, 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 petitioner shall report before the respondent Police, as and when required for further interrogation.

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

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



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[e] the petitioner 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 orders against the petitioner in accordance with law as if the aforementioned 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)13 SCC 283]**;

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

13.06.2025

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Note: The Commissioner of Police, Avadi is directed to conduct an enquiry in this case and find out the justifiable reason for arresting the petitioner and take appropriate action against the concerned official and file a report before this Court.



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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.

1. The Judicial Magistrate No.I, Poonamallee

2. The Inspector of Police
All Women Police Station
Avadi

3. The Central Prison, Puzhal

4. The Public Prosecutor,
High Court of Madras.



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M.NIRMAL KUMAR, J.
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