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CRL OP No. 22491 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-08-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

CRL OP No. 22491 of 2025

1. Kishore Kumar
New No.17, Old No.5/2, 3rd Street,
Vishvanathapuram, Kodambakkam,
Chennai - 600 024.

2. Gopi Arunachalam
No.13, 1st Street, Sama Nagar,
Tirupattur.

Petitioner(s)

Vs

1. Inspector of Police,
R2 Police Station, Kodambakkam,
Chennai - 24.

Respondent(s)

PRAYER Criminal Original Petition filed under section 528 of BNSS to set-aside the impugned order dt. 28/07/2025 passed by XVII Metropolitan Magistrate Court, Saidapet the case is pending trial Court in C.C.No.1804 of 2024 and enlarge the petitioner on bail pending and thus render justice.



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For Petitioner(s): Mr.R.Sankarasubbu

For Respondent(s): Mr.R.Vinodhraj,
Government Advocate [Crl.Side]

ORDER

Challenging the docket Order of the learned XVII Judicial Magistrate Saidapet, Chennai in cancelling the bail granted to the petitioners/accused by dismissing the petition filed by the petitioner under section 355 of BNSS, the present Criminal Original Petition has been filed.

2. The accused are facing trial in C.C.No.1804 of 2024 before the XVII Judicial Magistrate, Saidapet for the alleged offences under sections 294[b], 354 and 506[ii] read with 34 IPC. When the matter was posted for trial and P.W.1 and P.W.2 were present, the accused filed a petition under section 355 of BNSS for dispensing their personal appearance. Therefore, the trial Court had dismissed the petition filed under 355 of BNSS and by cancelling the bail granted to the accused, issued Non bailable warrant to the accused. The trial Court also closed the cross examination of P.W.1 and P.W.2 and the matter has



been adjourned. Challenging the said Order, the present Criminal Original

Petition has been filed.

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3. At the outset, this Court is of the view that without hearing the parties, the bail already granted to the petitioners cannot be cancelled. Be that as it may. The accused had already filed a petition under section 355 of BNSS. In such case, the trial Court ought to have granted an opportunity to the petitioners to cross examine the witnesses. In such view of the matter, the docket Order of the trial Court dated 28.07.2025 has to be set aside. The trial Court shall recall the warrant, if any, already issued against the petitioners and fix a date for cross examination of P.W.1 and P.W.2 and the witnesses shall be recalled and the accused shall cross examine the witnesses on the date fixed by the trial Court and complete the cross examination on that date itself. In the event, the accused failed to cross examine the witnesses on the same day, he will lose the right of cross examination of the witnesses.



4. With the above directions, this Criminal Original Petition is allowed

and the docket Order of the trial Court in C.C.No.1804 of 2024 dated

28.07.2025 is set aside.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

vrc

To

The XVII Judicial Magistrate,
Saidapet, Chennai.

2. Inspector of Police,
R2 Police Station, Kodambakkam,
Chennai - 24.



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N.SATHISH KUMAR J.

VRC

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