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Crl.O.P.No.30637 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2025

CORAM :

THE HON'BLE MR. JUSTICE K. RAJASEKAR

Crl.O.P.No.30637 of 2025

Vishwa @ Dhilipan

... Petitioner

-VS-

State Rep by,
The Inspector of Police,
Bhavanisagar Police Station,
Erode District.
(Crime No.51 of 2024)

... Respondent

Prayer:- Criminal Original Petition filed under Section 483 of BNSS, pleaded to enlarge the petitioner on bail in Crime No.51 of 2024 pending investigation on the file of the respondent police.

For Petitioner : Mr.S.Parthasarathy

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 07.10.2025, for the alleged offence punishable under Sections 294(b), 323,



324, 506(2), 109, 307 of IPC, in Crime No.51 of 2024, on the file of the respondent police, seeks bail.

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2. The petitioner seeks bail in Crime No.51 of 2024 on the file of Inspector of Police, Bhavanisagar Police Station for the offences under Sections, 294(b), 323, 324, 506(2), 109, 307 of IPC. Earlier, in the year 2024, the petitioner had filed an anticipatory bail application in Crl.MP.No.116 of 2024, before the learned Assistant Sessions Judge, which was allowed by an order dated 16.04.2024. However, the petitioner did not execute the sureties pursuant to the order. Subsequently, the petitioner was arrested on 08.05.2024 in connection with Crime No.95 of 2024 on the file of the very same police station for offences under Sections 294, 307, 506(ii) of IPC. While he was in custody in the said case, he was formally arrested in connection with Crime No.51 of 2024. He remained in custody for some time and was granted bail by the learned Judicial Magistrate in C.F.No.2619 of 2024 by order dated 11.09.2024. After his release on bail, the prosecution filed a petition seeking cancellation of the anticipatory bail granted earlier in Crl.MP.No.116 of 2024. The said anticipatory bail was cancelled by order dated 16.04.2024. Pursuant to the cancellation, a NBW was issued, and the petitioner was again arrested in the present case on 07.10.2025. Since the petitioner has been arrested for the second time in respect of the very same case, he has now approached this Court seeking bail.



3. The learned counsel for the petitioner submitted that the petitioner had already been arrested in this case on earlier on 10.07.2024 and was granted bail under Section 167(2) Cr.P.C .by order dated 11.09.2024 in CMP.No.2619 of 2024. After his release, the prosecution proceeded to obtain a order cancelling the anticipatory bail granted earlier, without properly placing before the Court the fact that the petitioner had already been arrested and released on bail in this case. Therefore, the cancellation petition had become infructuous. He further submitted that, as a consequence of such cancellation, a Non-Bailable Warrant was issued and the petitioner was once again arrested, and he is now in custody for more than 40 days.

3 (i). The learned counsel further submitted that the above sequence of events amounts to a clear violation of the petitioner's fundamental rights, as no person shall be subjected to double jeopardy or repeated deprivation of liberty in respect of the same cause of action. Further, the cancellation of bail, without proper reasoning and without considering the earlier grant of statutory bail, is procedurally unsustainable and violative of established legal principles. Hence, the petitioner seeks to be enlarged on bail and also prays that appropriate action be taken against the officials concerned for the procedural irregularities committed in this regard.



4. The learned Additional Public Prosecutor submitted that though the petitioner was arrested in this case in the year 2024, prior to such arrest, the prosecution had already moved an application seeking cancellation of anticipatory bail on the ground that the petitioner had bad antecedents. However, the said petition came to be disposed of belatedly in the year 2025, pursuant to which a NBW was issued. He further submitted that, in view of the NBW issued against the petitioner, the police were constrained to secure the petitioner and produce him before the concerned Magistrate, and therefore, no violation of the petitioner's fundamental rights has been committed. He further submitted that subsequent to the arrest and remand, the Trial Court dismissed the bail application, which would early establish that the arrest of the petitioner is legally valid. He also submitted that the judicial officers involved in the issuance of NBW cannot be faulted and any clarification, if required, must be sought in the appropriate manner. Hence, he submitted that while the petitioner may be released on bail, no consequential orders are necessary in this case.

5. Heard both sides and perused the materials available on record including the First Information Report.

6. Admittedly, the petitioner was arrested in the year 2024 in connection with Crime No.51 of 2024 and was subsequently released on bail.



In the meantime, the prosecution had filed a petition for cancellation of anticipatory bail granted earlier in the year 2024. By the time the said petition was taken up for consideration, the petitioner had already been arrested and released on bail in the said case, and therefore, the cancellation petition had become infructuous.

6(i). However, the prosecution proceeded with the said petition and obtained an order cancelling the anticipatory bail. A perusal of the order sheet of the learned Sessions Judge reveals that the prosecution had not properly disclosed the material fact that the petitioner had already been arrested and released on bail in the same case. Without being apprised of this crucial fact, the learned Sessions Judge proceeded to pass an order cancelling the anticipatory bail. The matter did not rest there. Subsequently, the prosecution approached the Magistrate Court and obtained a NBW, which was executed, leading to the arrest of the petitioner once again. Even assuming that the submission of the learned Additional Public Prosecutor is acceptable to the limited extent that the NBW was formally issued, this Court is of the considered view that the execution of the said NBW, in the facts and circumstances of the case, has resulted in violation of the petitioner's rights. The prosecution ought to have brought to the notice of this Court that the cancellation order pertained to an anticipatory bail and that the petitioner had already been arrested and released on regular bail. In such circumstances, execution of the NBW was



wholly warranted. On account of the said lapse, the petitioner was taken into custody and remained incarceration for nearly 40 days until interim bail was granted by this Court.

6(ii). Had the concerned Judicial Officer verified the records and the sequence of events in proper prospective, this situation could have been avoided. However, the fact remains that the petitioner was subjected to unnecessary incarceration due to the actions of the prosecution. In view of the above, this Court is of the opinion that the petitioner is entitled to compensation for the illegal detention suffered by him.

6(iii). Accordingly, the State is directed to pay a sum of Rs.1,00,000- (Rupees One Lakh only) to the petitioner as compensation with a period of four weeks from the date of receipt of a copy of this order. The State is at liberty to conduct a proper enquiry against the Inspector of Police concerned, and if any dereliction of duty is found, to recover the said compensation amount from the officer responsible. It is also observed that the failure on the part of the prosecution to bring relevant facts to the notice of the Court, particularly the earlier arrest and grant of bail, has resulted in serious prejudice to the petitioner.



7. Accordingly, the Criminal Original Petition is disposed of. The interim bail already granted to the petitioner by this Court, subject to conditions, shall stand confirmed and continue to be in force.

25.11.2025

drl

To

1.The Inspector of Police,
Bhavanisagar Police Station,
Erode District.

2.The Public Prosecutor,
High Court, Madras.



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K. RAJASEKAR, J.

drl

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