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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 25/02/2025

PRESENT

The HONOURABLE MR. JUSTICE R. SAKTHIVEL

CRL OP(MD). No.2269 of 2025

1. L.Lanoprin,
S/o.Lawrence,
D No.6/212 A, Misirivilai,
Kalkulam, Kanayakumari District.

2. Ebin Samuel Kingsly,
S/o.Kingsly,
D No.15-79E, Puthukadu,
Vettivilai, Moolachel,
Kalkulam,
Kanyakumari District.

3. B.Shaji,
S/o.Babu,
Shiju Bhavan Kuruviyode,
Punalai Post, Purumkullam,
Thiruvananthapuram District.
Kerala State.

... Petitioners/ Accused Nos.1 to 3

Vs

The State of Tamil Nadu,
Rep by the Inspector of Police,
Thiruvattar Police Station,
Thiruvattar,
Kanyakumari District.
Crime No.301/2024.

... Respondent/Complainant



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For Petitioners : Mr.Arun Ramnath.A,
Advocate

For Respondent : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor

For Intervener : Mr.S.Bharathy Kannan,
Advocate

PRAYER :-

For Anticipatory Bail in Crime No.301/2024 on the file of the respondent-Police.

ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioners on 03.02.2025 under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying to grant an order of pre-arrest bail.

2. The petitioners apprehend arrest at the hands of the respondent-Police for the offences punishable under Sections 294(b), 506(i) and 420 of IPC in Crime No.301 of 2024 on the file of the respondent-police.

3. The case of the prosecution is that on 15.06.2022, the second petitioner / Accused No.2 had approached the defacto complainant's son with a lucrative offer to buy a tour bus worth about Rs.35,00,000/- for a meagre amount of Rs.9,00,000/-. On believing his words, the defacto complainant's son had transferred a sum of Rs.9,00,000/- to the account of the first petitioner / Accused No.1. Even after receipt

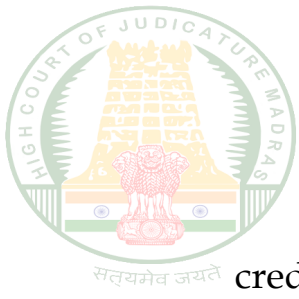


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of the said amount, for nearly five months, the vehicle was not handed over to him and thus, the defacto complainant and his son were known to be cheated. When the defacto complainant contacted the accused persons herein over the phone, they threatened the defacto complainant and his son with dire consequences. Hence, the complaint.

4. Mr.K.M.Karunakaran, learned counsel appearing for the petitioners, submits that the petitioners herein filed CrI.O.P.(MD).No.12838 of 2024 before this Court seeking an order of pre-arrest bail and the same was allowed on 07.08.2024 subject to certain conditions. In the said order, the petitioners were directed to deposit a sum of Rs.9,00,000/- to the credit of Crime No.301 of 2024 before the learned Judicial Magistrate II, Padmanabhapuram, Thuckalay, Kanyakumari District, without prejudice to their rights and contentions. Thereafter, the petitioners moved another application in CrI.M.P.(MD).Nos.10577 and 10580 of 2024 seeking an extension of time to comply the order dated 07.08.2024 passed by this Court in CrI.O.P.(MD).No.12838 of 2024 and to modify the condition in Paragraph No.7 in the said order. The said petitions were allowed on 14.10.2024 and thereby, the condition imposed in Paragraph No.7 of the order that the petitioners to deposit a sum of Rs.9,00,000/- was modified as follows:

“(i).The petitioners shall deposit a sum of Rs.4,00,000/- to the



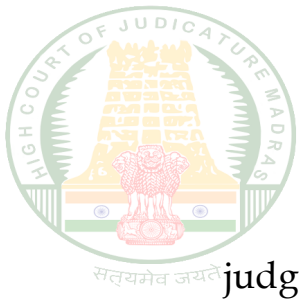
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credit of the crime number 301 of 2024 at the time of execution of sureties. Thereafter, within a period of two months, shall also deposit the balance amount of Rs.5,00,000/-."

Thereafter also, the petitioners did not comply with the modified order dated 14.10.2024. Hence, the defacto complainant filed CrI.M.P.(MD).No.26 of 2025 praying to cancel the pre-arrest bail granted in favour of the petitioners. After hearing both sides, the petition filed by the defacto complainant was allowed and the pre-arrest bail granted to the petitioners was cancelled vide order dated 06.01.2025. Now, once again, the petitioners filed this petition seeking an order of pre-arrest bail.

4.(i). He relies upon the judgment of this Court in the case of Radhakrishnan Vs. The State and another reported in 2003 Cri LJ 4167. He relies upon another judgment of this Court in CrI.O.P.(MD).No.22436 of 2010 in the case of Senthil Vs. The Inspector of Police. The relevant portion in the said order is extracted hereunder:

"In an alike situation, while considering the question of second application for anticipatory bail after cancellation of earlier order of granting of anticipatory bail, this Court in 2003 CRL LJ 4167 (Rajesh Ramrao Raut Vs. The State of Maharashtra) (cited supra) held that the second application for anticipatory bail is maintainable by relying on a



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judgment reported in 1989 1 Crimes 524 Rajasthan (Gheesya Vs. State of Rajasthan). This Court categorically held that if additional grounds are raised, the Court can very well take up the second petition to go into the question of granting anticipatory bail. Therefore, I am of the considered view that there is no bar in filing a second application for anticipatory bail on additional grounds or on change of circumstances."

4.(ii). He further submits that the earlier order passed in CrI.O.P.(MD).No.12838 of 2024 and the extension and the modification order passed in CrI.M.P.(MD). Nos.10577 and 10580 of 2024 are per incuriam. Further, the learned counsel relies upon the judgment of the Hon'ble Supreme Court in the case of Ramesh Kumar Vs. the State of NCT of Delhi reported in 2023 Livelaw (SC) 496.

5. Per contra, Mr.S.Meenakshi Sundaram, learned Additional Public Prosecutor appearing for the respondent-Police submits that there is no change in circumstances. He further submits that if pre-arrest bail is granted to the petitioners, they may abscond, thereby, delaying the investigation. He further submits only to drag on the proceedings, the petitioners have filed successive petitions. Accordingly, he prays to dismiss this petition.

6. Mr.S.Bharathy Kannan, learned counsel appearing for the defacto complainant, submits that the petitioners only with a view to drag on the



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proceedings, have filed this present Criminal Original Petition. He further submits that only, on the undertaking given by the petitioners that they would deposit a sum of Rs.9,00,000/- to the credit of Crime No.301 of 2024 before the learned Judicial Magistrate II, Padmanabhapuram, Thuckalay, Kanyakumari District, without prejudice to their rights and contentions, this Court granted pre-arrest bail to the petitioners on 07.08.2024 in CrI.O.P.(MD).No.12838 of 2024 and thereafter, at the request of the petitioners, that condition was also modified. Thereafter also, there is no change in circumstances. Hence, this petition is not maintainable. Accordingly, he prays to dismiss the petition.

7. In view of the previous orders, i.e., pre-arrest bail order, extension order, modification order, it is clear that the petitioners have no intention to deposit the amount by complying with the orders of this Court. Their intention is only to drag on the investigation by filing successive petitions. If the petitioners are willing to co-operate with the investigating agency, they would have deposited the amount, even though the condition for depositing the amount was modified. Therefore, there is no change in circumstances. Hence, the custodial interrogation of the petitioners is necessary. Apart from that, the judgments cited by the learned counsel for the petitioners would not be applicable to the present case. This Court is therefore not inclined to grant pre-arrest bail to the petitioners once again.



8. Accordingly, this Criminal Original Petition stands dismissed.

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/03/2025

Sub-Assistant Registrar (C.S.-I/ II /III/ IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TSG
TO

1 THE INSPECTOR OF POLICE,
THIRUVATTAR POLICE STATION, THIRUVATTAR,
KANYAKUMARI DISTRICT.

2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.S.BHARATHY KANNAN, Advocate (SR-2151[I] dated 26/02/2025)

ORDER
IN
CRL OP(MD) No.2269 of 2025
Date :25/02/2025

NBF/VR / SAR/ (24/03/2025) 7P/4C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023