

CRL.OP (MD) No.2158 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 18.03.2025

Pronounced on : 09.04.2025

COROM

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRL.OP (MD) No.2158 of 2025

1.Roobas Deepak

2.Neethiperumal

... Petitioners / Accused Nos.1 & 2

Vs.

The State of Tamil Nadu rep. by
The Inspector of Police,
Usilampatti Town Police Station,
Madurai District.
(Crime No.32 of 2025)

... Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita [BNSS], 2023 praying for grant of pre-arrest bail to the petitioner in connection with Crime No.32 of 2025 on the file of the respondent-police.

For Petitioners : Mr.P.Arumugavel,
Advocate

For Respondent : Mr.K.Sanjai Gandhi,
Government Advocate (Criminal Side)

For Intervener : Mr.Srikanth, Advocate

ORDER

This Criminal Original Petition has been filed by the petitioners on 30.01.2025 under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying to

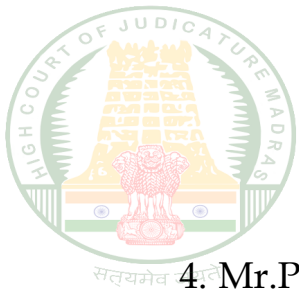


grant an order of pre-arrest bail.

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2. The petitioners apprehend arrest at the hands of the respondent-police for the offences punishable under Sections 406 & 420 of Indian Penal Code, 1860 and Sections 296(b) and 351(2) of Bharatiya Nyaya Sanhita, 2023, in Crime No.32 of 2025 on the file of the respondent-police.

3. The case of the prosecution is that the defacto complainant is residing and working in the USA. He had planned to construct a commercial complex at Usilampatti and a godown in Chennai. For this purpose, he entrusted the construction work to the first petitioner. The defacto complainant executed a power of attorney in favour of the first petitioner, and they also entered into a construction agreement in the year 2018. Pursuant to the agreement, the defacto complainant transferred a sum of Rs.3.33 crores to the account of the first petitioner. However, the first petitioner constructed only the ground floor at Usilampatti and failed to complete the construction of the first and second floors. The first petitioner also rented out eight shops on the ground floor to certain individuals in his own name. Subsequently, the defacto complainant visited Chennai to inspect the construction of the godown. It was found that only the basement for the godown yard had been laid. When the defacto complainant visited the said property, the second petitioner allegedly restrained him and threatened him with dire consequences. Hence, the case.



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4. Mr.P.Arumugavel, the learned counsel for the petitioners, submitted that the petitioners are innocent persons, that they have not committed any offence as alleged by the prosecution and that a false case has been foisted against the petitioners. He further submitted that the defacto complainant approached the first petitioner for three separate works: (1) construction of a commercial complex at Usilampatti, (2) construction of a building at Kospur, Chennai, and (3) garden development work at Usilampatti. There were encroachments on the properties allotted for the construction of the commercial complex and the garden at Usilampatti. The first petitioner took steps to remove these encroachments and actively participated in the police enquiry and the RDO enquiry. Ultimately, the encroachments were removed, and the construction was carried out. He further submitted that the defacto complainant had paid approximately Rs.3 crores on various dates between 12.10.2017 and 02.03.2024, through around 400 transactions. Out of the total amount, the first petitioner constructed the commercial complex at Usilampatti at a cost of Rs. 2.75 crores, the building at Kospur, Chennai for Rs.69 lakhs, and further incurred an expenditure of Rs. 25 lakhs for the garden development at Usilampatti. Altogether, the first petitioner has spent approximately Rs.3.69 crores, including expenses for building plan approval, security staff salaries, tax payments, electricity connection security deposits, and other incidental charges. However, the defacto complainant,



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without fully settling the construction-related dues, is now attempting to take physical possession of the properties. The learned counsel further stated that the present issue is purely a civil dispute. The defacto complainant, in collusion with certain police officials, is attempting to twist the facts to give a criminal colour to the matter by cheating. In fact, the defacto complainant never visited the property on 04.08.2024, as alleged in the police complaint. The first petitioner is in possession of CCTV footage to substantiate the same. The complaint is a fabricated story, created only for the purpose of harassment. He, however, submitted that the petitioners are ready to abide by any conditions to be imposed by this Court. He therefore prayed for grant of pre-arrest bail to the petitioners.

5. Per contra, Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor appearing for the respondent-police, submitted that there are two accused persons in this case, A1 and A2, and they are before this Court. He further submitted that the defacto complainant is residing in the USA and had sent money to the first petitioner for executing three separate projects. For this purpose, the defacto complainant transferred more than Rs.3 crores to the first petitioner through bank transactions. However, after receiving the said amount, the first petitioner failed to complete the construction works as agreed. Furthermore, the petitioners have unlawfully inducted certain persons as tenants in the building and collected rent from them, despite



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having no legal authority to do so. He further submitted that the petitioners have no right to obstruct the defacto complainant, who is the rightful owner of the property.

Even after the defacto complainant cancelled the power of attorney earlier executed in favour of the first petitioner, the petitioners continued to prevent him from entering into his property. Therefore, he contended that, if the petitioners are granted pre-arrest bail, they will cause threat to the defacto complainant and tamper with the evidence. Hence, he submitted that the custodial interrogation of the petitioners is necessary in this case. Accordingly, he prayed to dismiss this Criminal Original Petition.

6. Mr.Srikanth, the learned counsel for the intervener/defacto complainant, submitted that on 21.01.2025, when the defacto complainant attempted to visit his property in Usilampatti, he was obstructed and threatened by A2. He further submitted that A1 misused the Power of Attorney executed by the defacto complainant by executing rental agreements in his own name, misappropriating funds, and continuing to lease out the property even after the Power of Attorney was revoked on 05.08.2024. He also submitted that the defacto complainant has been unable to take possession of the property due to the unlawful actions of the accused persons. Furthermore, A1 filed a civil suit in O.S. No.124 of 2024 with false pleadings in an attempt to create a legal cover for their illegal occupation. The learned counsel



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further contended that if the petitioners are granted pre-arrest bail, they will cause threat to the defacto complainant and tamper with the evidence. Accordingly, he prayed to dismiss this Criminal Original Petition.

7. Heard the learned counsel on either side and perused the materials available on record.

8. Admittedly, the defacto complainant executed an unregistered specific Power of Attorney in favour of the first petitioner, authorizing him to construct buildings on properties located in Usilampatti and Chennai. When the defacto complainant came to India and visited the properties, the construction of the buildings remained incomplete. The first petitioner had also rented out certain shops in the commercial building to third parties, for which he is said to have received amounts as advance and have been collecting rent. When the defacto complainant attempted to enter into the building, the second petitioner restrained him from accessing the property. Following this incident, the Power of Attorney was cancelled by the defacto complainant. According to the first petitioner, the defacto complainant is liable to pay him certain amounts towards the construction of the buildings. The first petitioner has also filed a civil suit in O.S.No.124 of 2024 seeking a permanent injunction, based on the unregistered Power of Attorney dated 01.07.2016.

9. In view of the above facts, this Court is of the opinion that, since the



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construction was undertaken pursuant to a contract, the core issues “whether the Power of Attorney was coupled with interest, whether the defacto complainant is liable to pay any balance amount, and etc., must be determined during the course of the trial or by the competent Civil Court. It is prima facie established that the first petitioner has no right over the property as on date. Therefore, the petitioners are not entitled to seek protection under Section 53-A of the Transfer of Property Act, 1882, or under Section 17 of the Registration Act, 1908, as amended by the Registration and Other Related Laws (Amendment) Act, 2001 (Act 48 of 2001, with effect from 24 September 2001). Further, the investigating agency has recorded the statements of the tenants, namely, Vinoth, Anandhakumar, Satheeshkumar, Naveen, Praveen Kumar, Murugan, Thirukumar, Puthiyavan, Shanmuganathan, and Mahalingam. These statements prima facie indicate that the petitioners had inducted various persons as tenants into the building. Admittedly, the building is owned by the defacto complainant. In view of the cancellation of the Power of Attorney, the petitioners have no legal right over the said property. However, the petitioners continue to commit the offence by unlawfully restraining the defacto complainant from entering into his property. Hence, the custody of the petitioners is necessary to prevent the continuation of commitment of offence and to unearth the truth, including the details of the amounts received by the petitioners from the tenants for letting out the shops



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and other related transactions. In view of the above facts and circumstances, this

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Court is not inclined to grant pre-arrest bail to the petitioners.

10. In the result, this Criminal Original Petition is dismissed.

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Sub-Assistant Registrar

(C.S. I / II / III / IV)

Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

1 THE INSPECTOR OF POLICE,
USILAMPATTI TOWN POLICE STATION, MADURAI DISTRICT.

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

ORDER IN

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Date :09/04/2025

SA/SAR. /23.04.2025/8P/3C

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