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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.03.2025**

PRESENT

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRL.OP(MD). No.2400 of 2025

Elbin @ Lurdus Elifin ... Petitioner / Accused No.2

Vs.

The State of Tamil Nadu rep by
The Inspector of Police,
Koodankulam Police Station,
Tirunelveli District.
(Crime No. 381 of 2024) ... Respondent / Complainant

PRAYER :- The Criminal Original Petition filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 praying to grant pre-arrest bail to the petitioner in Crime No.381 of 2024 on the file of the respondent-police.

For Petitioner : Mr.A.S.Abdul Kalaam Azad

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

ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioner on 05.02.2025 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 petitioner apprehends arrest at the hands of the respondent police for the offence punishable under Sections 296(b), 75(2), 351(2) of the Bharatiya Nyaya Sanhita (BNS), 2023 and Section 67 of the Information Technology Act, 2000, in Crime No.381 of 2024 on the file of the respondent-police.

3. The case of the prosecution is that the defacto complainant's husband is works abroad, and while she was talking to him through video call, the 1st accused took a video and sent it to the petitioner / 2nd accused. Thereafter, the said video was morphed to make it appear as though she was talking to someone else. On 25.08.2024, at about 5.00 p.m., the accused threatened the defacto complainant by showing her the morphed video and sent it to few others, including her husband and her husband's relatives. The accused persons also attempted to subject the defacto complainant to an extramarital relationship. Hence, the case.

4. A.S.Abdul Kalaam Azad, the learned counsel for the petitioner, submits that the petitioner is an innocent person, and he has voluntarily appeared before the respondent-police and surrendered his mobile phone. He further submits that the petitioner has not committed any offence as alleged by the prosecution, and a false

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has been foisted against this petitioner. He, however, submits that the petitioner is ready to abide by any conditions to be imposed by this Court. He therefore prays for grant of pre-arrest bail to the petitioner.

5. *Per contra,* Mr.K.Sanjai Gandhi, the learned Government Advocate (Criminal Side) appearing for the respondent-police, on instructions, submits that the petitioner has been arrayed as Accused No.2. He further submits that they have received the mobile phone of the petitioner and he is cooperating with the investigating agency. He, however, prays to dismiss this Criminal Original Petition.

6. Heard on both sides. This Court has perused the records.

7. In view of the offence alleged against the petitioner, this Court is of the view that custodial interrogation of the petitioner is not necessary in this case. Further, the petitioner has permanent residence and therefore, there is less possibility for absconding. Considering the above, and also considering the facts and circumstances of the case, and taking note of the fact that there are no previous cases against the petitioner, and with a view to give an opportunity to the petitioner to reform himself, this Court is inclined to grant an order of pre-arrest bail to the petitioner subject to the following conditions.

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(i) The petitioner shall be released on pre-arrest bail in the event of his arrest or in the event of his surrender before the District Munsif cum Judicial Magistrate Court, Radhapuram, Tirunelveli District, within a period of 15 days from date on which the order copy is made ready, on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) along with two sureties each for a like sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the satisfaction of the District Munsif cum Judicial Magistrate Court, Radhapuram, Tirunelveli District.

(ii) The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Judicial Magistrate shall obtain a copy of any one of identity proofs to ensure their identity.

(iii) The petitioner shall appear and sign before the respondent-police daily at 10.00 a.m. until further orders.

(iv) The petitioner shall not enter into the defacto complainant's house or her workplace.

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(v) The petitioner shall not try to contact the defacto complainant either directly or through any electronic mode;

(vi) The petitioner shall make himself available for interrogation by a police officer as and when required.

(vii) The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

(viiii) The petitioner shall not, directly or indirectly, cause any threat to the defacto complainant and witnesses and shall not tamper the evidence.

(ix) The petitioner shall not leave India without the previous permission of the Court.

(x) The petitioner shall furnish his residential address and mobile number to the concerned Magistrate.

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(xi) On breach of any of the aforementioned conditions, the learned Judicial Magistrate or Trial Court, as the case may be, is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned conditions are imposed by him as laid down by the Hon'ble Supreme Court in ***P.K. Shaji vs. State of Kerala [(2005) 13 SCC 283]***.

8. Accordingly, this Criminal Original Petition is allowed subject to the conditions stated *supra*.

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

MAC

TO

1 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
RADHAPURAM, TIRUNELVELI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.

3 THE INSPECTOR OF POLICE,
KOODANKULAM POLICE STATION,
TIRUNELVELI DISTRICT.

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

ORDER
IN
CRL OP(MD) No.2400 of 2025
Date :03/03/2025

SS/SKN/SAR- /18/03/2025/ 7P/5C

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