



CRL.OP(MD).No.3595 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2025

PRESENT

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRL.OP(MD).No.3595 of 2025

Mohamed Abdul Vahab

... Petitioner / Accused No.7

Vs.

The State of Tamil Nadu rep by
The Inspector of Police,
Chatrakudi Police Station,
Ramanathapuram District.
(Crime No.51 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.51 of 2024 on the file of the respondent-police.

For Petitioner : Mr.B.Ramamoorthi,
Advocate.

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

For Intervener : Mr.S.Vashik Ali,
Advocate.

ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioner on 24.02.2025 under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying to grant an order of pre-arrest bail.



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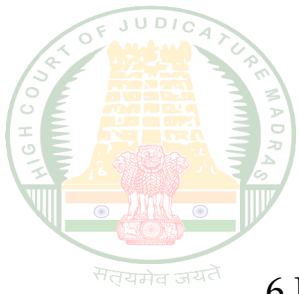
2. The petitioner apprehends arrest at the hands of the respondent- police for the offence punishable under Sections 417, 420, 466, 468 and 471 of IPC, in Crime No.51 of 2024 on the file of the respondent-police.

3. The case of the prosecution is that the accused persons colluded together and cheated the defacto complainant by forging and creating the documents as Accused No.1 is only the owner of the property, even though there are 10 legal heirs available. Hence, the complaint.

4. This is the sixth petition filed by the petitioner before this Court. The earlier bail application in Crl.O.P(MD).No.21897 of 2024 was dismissed on 19.12.2024 on the ground that there is no change in circumstances. The relevant portions are extracted hereunder:

“4.The change in circumstances that is submitted by the learned counsel for the petitioner is that the second accused was granted anticipatory bail by the District Court. The other circumstance is that the defacto complainant and others have filed a civil suit in O.S.No.140 of 2024 and in that suit, A1 and A6 alone have been added as defendants and this petitioner has not been added as defendant.

5.Heard the learned counsel appearing on either side and perused the materials placed on record.



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6. In the considered view of this Court, the petitioner is a document writer. Therefore, there is no need to add the name of the petitioner in the civil Suit that was filed by the defacto complainant along with others. It is also seen from the records that the anticipatory bail application filed by the second accused was earlier dismissed by this Court by an order dated 21.11.2024. Thereafter, the second accused seems to have moved the Sessions Court and obtained anticipatory bail. In view of the same, this Court passed an order dated 12.12.2024 and the same is extracted hereunder:

“This anticipatory bail petition filed by the petitioner on the ground that A2 was granted anticipatory bail by the learned Principal Sessions Judge, Ramanathapuram in CrI.M.P.No.4905 of 2024 by an order dated 29.11.2024.

2. A2 had earlier filed anticipatory bail petition in CrI.OP(MD). No.20219 of 2024 and the said petition was dismissed by an order dated 21.11.2024 and the relevant portions are extracted hereunder:-

“When this Court was not inclined to grant anticipatory bail to the petitioner, the learned counsel appearing for the petitioner sought for permission to withdraw this Criminal Original Petition.



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2. Accordingly, this Criminal Original Petition stands dismissed as withdrawn."

Thereafter, A2 had gone before the learned Principal Sessions Judge, Ramanatharpurm and filed an anticipatory bail petition and the learned Principal Sessions Judge has granted anticipatory bail to A2.

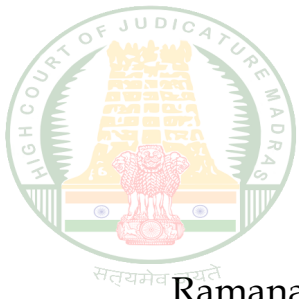
3. It is now too well settled that once a bail or an anticipatory bail is disposed either on merits or as withdrawn by the High Court, subsequent petition can be filed only before the High Court and it cannot be entertained by the Court below. Useful reference can be made to the judgment of this Court in T.Kokila Devi -vs S.Thenmurugan and Ors reported in 2019 (2) LW (Crl) 738.

4. In view of the above, there shall be a direction to the learned Principal Sessions Judge, Ramanathapuram to submit a report before this Court as to how the anticipatory bail petition filed by A2 was entertained by the Sessions Court when the earlier anticipatory bail petition filed by A2 was dismissed as withdrawn by this Court on 21.11.2024. The report shall reach this Court on or before 18.12.2024.

5. Post this case on 19.12.2024."

7. A report has been received from the Principal District Judge,

<https://www.mhc.tn.gov.in/judis>



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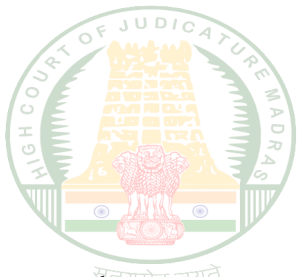
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Ramanathapuram. The learned Sessions Judge has stated that the judgment of the Hon'ble Apex Court in Sharad Vs. The State of Maharashtra in Crl.Appeal No.1221 of 2019 dated 08.08.2019 was relied upon and that the learned Judge was not aware of the order passed by this Court. The learned Sessions Judge has also stated that he will henceforth follow the directions issued by this Court scrupulously.

8. In the considered view of this Court, the anticipatory bail granted in favour of the second respondent by the Sessions Court cannot be taken as a ground by the petitioner to seek for anticipatory bail. Even though the explanation given by the learned Principal District Judge, Ramanathapuram is not satisfactory, considering the reasons given, this Court does not want to further precipitate this matter. This Court only hopes that the District Judiciary will follow the judgment of this Court scrupulously in future.

9.This Court does not find any change in circumstances. Accordingly, this Criminal Original Petition stands dismissed."

5. Mr.B.Ramamoorthi, the learned counsel for the petitioner, submits that the petitioner is innocent person and he has not committed any offence as alleged by the prosecution. He further submits that the petitioner has been falsely implicated in



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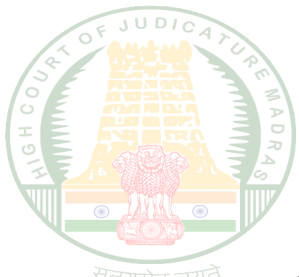
this case. He however submits that the petitioner is ready to abide by any conditions imposed by this Court and accordingly, he prays for the grant of pre-arrest bail.

6. Per contra, Mr.R.Meenakshi Sundaram, the learned Additional Public Prosecutor appearing for the respondent-police, submits that the petitioner is the Document Writer. He further submits that the petitioner has been arrayed as A7. He therefore contends that if pre-arrest bail is granted to the petitioner, he may abscond and tamper the evidence. Therefore, he submits that custodial interrogation of the petitioner is necessary in this case to unearth the truth. Accordingly, he prays to dismiss this Criminal Original Petition.

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

8. The petitioner has permanent residence. Hence, there is less possibility of absconding. Considering the same and also considering the facts and circumstances of the case, the nature of the offence allegedly committed by the petitioner and with a view to give one more opportunity to the petitioner, this Court is inclined to grant pre-arrest bail to the petitioner. Accordingly, pre-arrest bail is granted to the petitioner subject to the following conditions:

(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 learned Judicial Magistrate, Paramakkudi, within a period of 15 days from the date on which the order copy is made ready, on



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executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only)
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along with two sureties each for a like sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the satisfaction of the learned Judicial Magistrate, Paramakkudi.

(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.

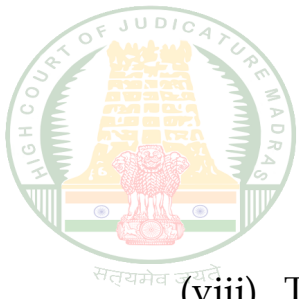
(iii) The petitioner shall appear and sign before the learned Judicial Magistrate, Paramakkudi daily at 10.00 a.m. on all working days until further orders.

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

(v) 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.

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

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



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

(ix) 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].

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

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18.03.2025

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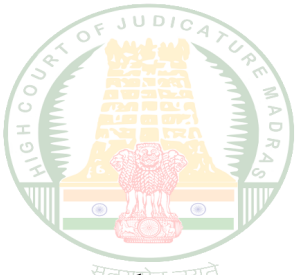
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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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To

1.The Judicial Magistrate,
Paramakkudi .

2.Do through the Chief Judicial Magistrate,
Ramanathapuram District.



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3.The Inspector of Police,
Chatrakudi Police Station,
Ramanathapuram District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
CRL OP(MD) No.3595 of 2025
18.03.2025

SL(01.04.2025)/ 9P/ 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.