



CRL OP(MD). No.2619 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 22/04/2025

PRESENT

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

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1. Mohamed Subaideen
2. Faruk Maraika

... Petitioners/ Accused Nos.1 & 2

Vs

The State of Tamilnadu,
Rep. by the Inspector of Police,
Keelakarai Police Station,
Ramanathapuram District.
Crime No. 209/2024

... Respondent/Complainant

For Petitioners : Mr.D.S.Haroon Rasheed,
Advocate

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

For Intervener : Mr.S.Sivaprakash,
Advocate

PETITION FOR ANTICIPATORY BAIL Under Sec.482 of BNSS, 2023

PRAYER :-

For Anticipatory bail in Crime No. 209 of 2024 on the file of the Respondent-



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ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioners on 07.02.2025 under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying to grant an order of pre-arrest bail.

2. The petitioners apprehend arrest at the hands of the respondent-police for the alleged offences punishable under Sections 316(2), 296(b), 115(2) and 351 (2) of BNS, 2023 in Crime No.209 of 2024 on the file of the respondent-police.

3. The case of the prosecution is that the defacto complainant is running a travel agency at Keelakarai under the name and style of 'A1 Affiya Tours and Travels'. The petitioners herein are brothers and were both employed at the said agency. While the defacto complainant went to Andhra Pradesh for his higher studies, he entrusted the entire administration of the agency to the first petitioner. During this period, the petitioners allegedly misappropriated a sum of Rs.33,26,953/- (Rupees Thirty Three Lakhs Twenty Six Thousand Nine Hundred and Fifty Three only) from various customers through G-Pay. On 26.09.2025, when the defacto complainant confronted the petitioners regarding the matter, they threatened him with dire consequences. Hence, the complaint.

4. Mr.D.S.Haroon Rasheed, the learned counsel for the petitioners, submits



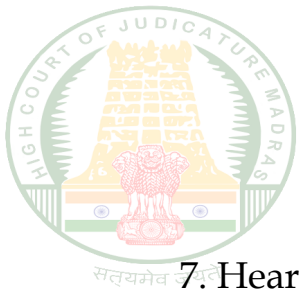
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that the petitioners are innocent persons, and that they have not committed any offence as alleged by the prosecution. He further submits that the first petitioner is a partner of the above said agency and due to some misunderstanding between the first petitioner and the defacto complainant, the defacto complainant made a false complainant against the petitioners herein. He, however, submits that the petitioners are ready to abide by any conditions to be imposed by this Court. Accordingly, he prays to grant an order of pre-arrest bail to the petitioners.

5. Per contra, Mr.K.Sanjai Gandhi, learned Government Advocate (Criminal Side) appearing for the respondent-Police, submits that the petitioners have misappropriated the amount of Rs.35,35,453/- (Rupees Thirty Five Lakhs Thirty Five Thousand Four Hundred and Fifty Three only). He further submits that the petitioner have returned back only a sum of Rs.5,50,000/- (Rupees Five Lakhs Fifty Thousand only). Therefore, he prays to dismiss this Criminal Original Petition.

6. Mr.S.Sivaprakash, learned counsel appearing for the intervener / defacto complainant submits that the petitioners have repaid only a sum of Rs.5,50,00/- and the remaining amount has not yet been settled. He further submits that if pre-arrest bail is granted to the petitioners, they may be emboldened and cause threat to the defacto complainant and the witnesses. Hence, he vehemently opposes to grant pre-arrest bail to the petitioners.



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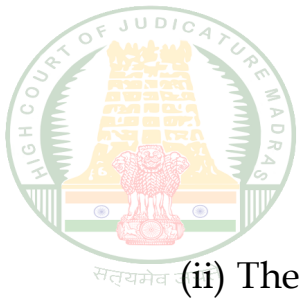
7. Heard on both sides. This Court has perused the records.

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8. Since it appears that the petitioners and the defacto complainant were involved in certain business transaction and had disputes arising therefrom, this Court is of the view that the custodial interrogation of the petitioner may not be necessary in this case.

9. Considering the above, and considering the nature of the offence allegedly committed by the petitioners, and the fact that the petitioners have permanent residence and deep roots in the society, and therefore, there is less possibility of absconding, and also with a view to give an opportunity to the petitioners to reform themselves, this Court is inclined to grant pre-arrest bail to the petitioners. Accordingly, pre-arrest bail is granted to the petitioners subject to the following conditions:

(i) The petitioners shall be released on pre-arrest bail in the event of their arrest or in the event of their surrender before the learned Judicial Magistrate I, Ramanathapuram, within a period of 15 days from the 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) each 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 I, Ramanathapuram;



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(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 I, Ramanathapuram, shall obtain a copy of any one of identity proofs to ensure their identity;

(iii) The petitioners shall appear and sign before the respondent-police daily at 09.00 a.m., until further orders.

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

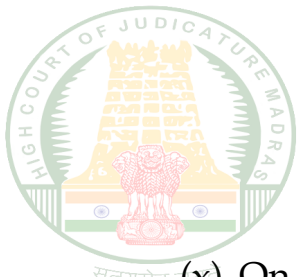
(v) The petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer.

(vi) The petitioners shall not, directly or indirectly, cause threat to the defacto complainant / intervener and the witnesses and shall not tamper the evidence.

(vii) The petitioners shall not leave India without prior permission of the Court.

(viii) The petitioners shall furnish their residential address and mobile number to the learned Judicial Magistrate I, Ramanathapuram.

(ix) The petitioners shall not enter into the defacto complainant's house or his work place.



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सत्यमेव जयते (x) On breach of any of the aforementioned conditions, the learned Judicial
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Magistrate I, Ramanathapuram or Trial Court, as the case may be, is entitled to pass appropriate orders against the petitioners 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].

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

sd/-
22/04/2025

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/05/2025
Sub-Assistant Registrar (C.S.-I/ II /III/ IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

tsg
TO

1 THE JUDICIAL MAGISTRATE I, RAMANATHAPURAM.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.

3 THE INSPECTOR OF POLICE,
KEELAKARAI POLICE STATION, RAMANATHAPURAM DISTRICT.

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



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ORDER

IN

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Date :22/04/2025

NBF/28.05.2025 7P/5C

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