



CRL.OP (MD) No.3665 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 24.04.2025

Pronounced on : 30.04.2025

PRESENT

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRL.OP (MD) No.3665 of 2025

1.Inbaraj

2.Rajendran

3.Sumathi

4.Usha Devi

... Petitioners / Accused Nos.1 to 4

Vs.

The State of Tamil Nadu rep by
The Inspector of Police,
All Women Police Station,
Melur, Madurai District.
(Crime No.1 of 2025)

... 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
petitioners in Crime No.1 of 2025 on the file of the respondent-police.

For Petitioners : Mr.S.Sukumar, Advocate

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

For Intervener : Mr.S.Poornachandran,
Advocate



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ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioners on 24.02.2025 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 offences punishable under Sections 85, 296(b), 316(2), and 351(2) of the Bharatiya Nyaya Sanhita, 2023, and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act (TNPWH), 2002, in Crime No.1 of 2025 on the file of the respondent-police.

3. The case of the prosecution is that the defacto complainant is the wife of the first petitioner. The marriage between the first petitioner and the defacto complainant was solemnized on 21.01.2024. At the time of marriage, 30 sovereigns of gold ornaments, household articles worth approximately Rs. 4,00,000/-, and cash amounting to Rs. 1,00,000/- were given as dowry. After the marriage, the couple resided at the residence of the fourth petitioner, where 30 sovereigns of gold ornaments were forcibly taken from the defacto complainant. Further, the petitioners demanded additional dowry of Rs. 15,00,000/- and subjected the defacto complainant to physical and mental cruelty. The petitioners also abused her in filthy



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language and eventually drove her out of the matrimonial home. Hence, the case.

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4. Mr.S.Sukumar, 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 allegations levelled in the FIR are false, baseless, and made with malicious intent. After the marriage, the defacto complainant resided with the first petitioner for a brief period of approximately two months. Subsequently, owing to a domestic dispute, she voluntarily left the matrimonial home, taking with her the jewels and household articles. Thereafter, on 22.04.2024, the defacto complainant lodged a complaint against the petitioners, compelling them to approach this Court by filing Crl.O.P.(MD) No.9709 of 2024, seeking protection from harassment under the guise of enquiry. This Court passed an order on 03.07.2024, pursuant to which the matter was referred to the Social Welfare Officer for appropriate enquiry. He also submitted that, subsequently, on 13.10.2024, another complaint was filed by the defacto complainant, based on which the present FIR came to be registered. He further submitted that the petitioners appeared for enquiry before the Social Welfare Officer on 09.12.2024 and that during the said enquiry, the defacto complainant and her relatives attempted to assault the petitioners, following which a complaint was submitted to the Deputy Superintendent of Police, Melur. The Social Welfare Officer



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also filed a report confirming that there was no instance of dowry harassment. In the meantime, on 05.02.2025, the first petitioner received a notice under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita (BNSS) by post from the respondent-police, summoning him to appear on 04.02.2025. Due to the delay in receipt of the said notice, the first petitioner was unable to appear on the scheduled date. He further submitted that the first petitioner had already instituted H.M.O.P. No.123 of 2024 before the Family Court, Sivagangai, on 15.04.2024, seeking restitution of conjugal rights. From the inception of the marriage, the defacto complainant displayed abnormal behaviour and consistently refused cohabitation with the first petitioner. Despite the absence of any physical relationship, she was subsequently found to be pregnant during a medical examination. He also submitted that the fourth petitioner has no connection whatsoever with the alleged incident and has been residing separately at her matrimonial home. He, however, submitted 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, the learned Government Advocate (Criminal Side) appearing for the respondent-police, submitted that the petitioners are accused of demanding additional dowry to the tune of Rs.15,00,000/- and subjecting the defacto complainant to both physical and mental cruelty. He further submitted that



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the petitioners abused the defacto complainant in filthy language and ultimately drove her out of the matrimonial home. The learned Government Advocate further submitted that there are no previous cases. He further submitted that if pre-arrest bail is granted to the petitioners, they will cause threat to the defacto complainant and tamper with the evidence. Accordingly, he prays to dismiss this Criminal Original Petition.

6. Mr.S.Poornachandran, the learned counsel for the intervener/defacto complainant, submitted that the defacto complainant was subjected to continuous physical, verbal, and mental harassment at the hands of the petitioners, who treated her in an inhumane and oppressive manner, akin to slavery. He submitted that, under such circumstances, the first petitioner demanded a sum of Rs.5,00,000/- from the defacto complainant, citing the need to meet financial expenses for the construction of a new house. He further submitted that the first petitioner threatened that he would resume cohabitation with the defacto complainant only upon receipt of the said amount. Thereafter, an additional demand of Rs.10,00,000/- was made by the first petitioner, allegedly to expand the shop of the fourth petitioner, which the defacto complainant refused to provide. The learned counsel further submitted that on 07.03.2024, the defacto complainant tested positive for pregnancy and informed the petitioners. However, rather than being supportive, the petitioners demanded



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that she terminate the pregnancy and instead take responsibility for caring for the fourth petitioner's children. He also submitted that on 23.03.2024, the petitioners attempted to murder the defacto complainant, and on the following day, i.e., 24.03.2024, they confined her in a room and physically assaulted her while demanding additional dowry. Fearing for her life and the safety of her unborn child, the defacto complainant sought help of neighbours, contacted her parents, and eventually left the matrimonial home. He further submitted that if pre-arrest bail is granted to the petitioners, they will cause threat to the defacto complainant and her family members. Accordingly, he prays to dismiss this Criminal Original Petition.

7. This Court has heard the learned counsel on either side and perused the materials available on record.

8. The matter was referred for mediation on 26.02.2025. However, no settlement was arrived at. Further, during the earlier hearing, the learned counsel for the petitioners submitted that 17½ sovereigns of gold ornaments remain in the custody of the first petitioner, while 12½ sovereigns are in the custody of the defacto complainant. It has been brought to the attention of this Court that a direction had already been issued to the petitioners to hand over 17½ sovereigns of gold ornaments, the educational certificates, and certain wooden articles ("wooden sils") belonging to the defacto complainant. However, subsequently, the learned counsel



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for the petitioners withdrew the earlier submission and made a contrary representation, stating that the first petitioner does not possess any of the defacto complainant's gold ornaments. Such a contradictory stand before this Court raises serious concern and, more importantly, the continued possession of the defacto complainant's personal property by the petitioners amounts to mental cruelty. This Court is of the view that such conduct attracts the offence under Section 85 of the Bharatiya Nyaya Sanhita, 2023. Therefore, unless and until the petitioners return the properties belonging to the defacto complainant, they remain in continuous commission of the said offence.

9. Considering the facts and circumstances of the case, and taking into account the specific overt act allegedly committed by the first petitioner, this Court is of the view that custodial interrogation of the first petitioner is necessary to unearth the truth. Hence, this Court is not inclined to grant pre-arrest bail to the first petitioner.

10. As far as the second to fourth petitioners are concerned, in view of the offences allegedly committed by them, this Court is of the opinion that their custodial interrogation is not necessary for the Investigating Agency. Further, the second to fourth petitioners have permanent residences and deep roots in society. Hence, there is less possibility of their absconding. Considering the same, and taking note of the fact that there are no previous cases against the second to fourth petitioners, and with



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a view to give them an opportunity to reform themselves, this Court is inclined to grant pre-arrest bail to the second to fourth petitioners. Accordingly, pre-arrest bail is granted to the second to fourth petitioners subject to the following conditions:

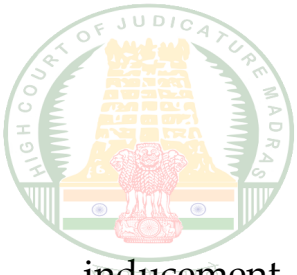
(i) The second to fourth petitioners shall be released on pre-arrest bail in the event of their arrest or in the event of their surrender before the learned Judicial Magistrate, Melur, within a period of 15 days from the date on which the order copy is made ready, on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each along with two sureties each for a like sum of Rs.10,000/- (Rupees Ten Thousand only) to the satisfaction of the learned Judicial Magistrate, Melur.

(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 second to fourth petitioners shall appear and sign before the respondent-police weekly twice i.e., on every Monday and Friday at 10.00 a.m. until further orders.

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

(v) The second to fourth petitioners shall not, directly or indirectly, make any



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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.

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

(vii) The second to fourth petitioners shall not leave India without the previous permission of the Court.

(viii) The second to fourth petitioners shall furnish their residential address and mobile number to the concerned Magistrate.

(ix) The second to fourth petitioners shall not enter into the residence or workplace of the defacto complainant and shall also not contact the defacto complainant either directly or indirectly, including through any electronic mode or third party.

(x) 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 second to fourth 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].

11. Accordingly, this Criminal Original Petition is dismissed insofar as the first



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petitioner is concerned and is allowed insofar as the second to fourth petitioners are
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concerned subject to the conditions stated supra.

sd/-
30/04/2025

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30/04/2025
Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

PAL
TO

1 THE JUDICIAL MAGISTRATE,
MELUR.

2 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
MELUR, MADURAI DISTRICT.

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



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ORDER

IN

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Date :30/04/2025

SA/SAR. /30.04.2025/11P/5C

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