



CRL.OP(MD). No.4138 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

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1.Vaikundaraja

2.Mariselvam

3.Chellam

... Petitioners / Accused Nos.1 to 3

Vs.

The State of Tamil Nadu rep by
The Inspector of Police,
Kadayam Police Station,
Tenkasi District.
(Crime No.82 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.82 of 2025 on the file of the respondent-police.

For Petitioners : Mr.P.P.Alwin Balan,
Advocate

For Respondent : Mr.S.S.Manoj,
Government Advocate
(Criminal Side)

ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioners on 04.03.2025



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under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying
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to grant an order of pre-arrest bail.

2. The petitioners apprehend arrest at the hands of the respondent- police for the offences punishable under Sections 406, 420, 294(b) of IPC, in Crime No.82 of 2025 on the file of the respondent-police.

3. The case of the prosecution is that the defacto complainant is an NRI, and the first petitioner is a building contractor. In 2015, the first petitioner promised to construct a first floor in the defacto complainant's house, with a plinth area of 1033.5 sq. ft., at the rate of Rs.1,100 per sq. ft., using good-quality materials. As per the first petitioner's demand, the defacto complainant made the following payments Rs.11,00,000 in 2015, Rs.9,00,000 in 2016, and Rs.1,00,000 in 2017, totaling Rs.21,00,000. When the defacto complainant visited his house in 2016, he found that the construction had been carried out using substandard materials, and there were horizontal cracks on the walls of the building. On 24.04.2023, when measurements were taken, the total area of the first floor was found to be 1102 sq. ft., and the actual construction cost was estimated at Rs.12,12,200/-. However, the first petitioner had received an additional payment of Rs.8,87,800/-. The first petitioner acknowledged this, and consequently, the second petitioner executed a promissory note on 01.05.2023. Subsequently, on 11.05.2023, when the defacto complainant met the first



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petitioner and demanded the refund, the second petitioner allegedly threatened him with dire consequences with the intent to cheat him. As the respondent-police did not take the complaint on file, the defacto complainant filed a petition in CrI.M.P. No.1293 of 2024, seeking a direction under Section 156(3) Cr.P.C. Pursuant to the Judicial Magistrate, Tenkasi's direction, the present FIR in Crime No.82 of 2025 was registered.

4. Mr.P.P.Alwin Balan, the learned counsel for the petitioners, submits that the petitioners are innocent persons, they have not committed any offence as alleged by the prosecution and he submits that a false case has been foisted against the petitioners. He further submits that no injury was caused to the defacto complainant. He, however, submits that the petitioners are ready to abide by any conditions to be imposed by this Court. He therefore prays for grant of pre-arrest bail to the petitioners.

5. Per contra, Mr.S.S.Manoj, the learned Government Advocate (Criminal Side) appearing for the respondent-police, submits that the petitioners have been arrayed as A1 to A3. He further submits that there are no previous cases against the petitioners. He further submits that if pre-arrest bail is granted to the petitioners, they will cause threat to the defacto complainant and tamper with the evidence and that custodial interrogation of the petitioners is necessary in this case to unearth the truth.



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Accordingly, he prays to dismiss this Criminal Original Petition.

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

7. Considering the facts and circumstances of the case and considering the overt act allegedly committed by the petitioners, and taking note of the fact that the petitioners are first offenders and with a view to give an opportunity to the petitioners to reform themselves, this this Court is inclined to grant an order of pre-arrest bail to the petitioners subject to the following conditions:

(i) The petitioners shall be released on bail in the event of their arrest or in the event of their surrender before the learned Judicial Magistrate, Tenkasi, 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, Tenkasi.

(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 petitioners shall appear and sign before the respondent-police weekly once i.e., on every Sunday at 10.00 a.m., until further orders.



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(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 him from disclosing such facts to the Court or to any police officer.

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

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

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

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

(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 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].



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

sd/-
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/04/2025
Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PAL
TO

1 THE JUDICIAL MAGISTRATE
TENKASI

2 DO-THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
TENKASI.

3 THE INSPECTOR OF POLICE,
KADAYAM POLICE STATION,
TENKASI DISTRICT.

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

+1 CC to M/s.P.P.ALWIN BALAN, Advocate (SR-3189[I] dated 20/03/2025)



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ORDER

IN

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Date :18/03/2025

HPS/SAR / 03.04.2025/7P/6C

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