



CRL.OP(MD). No.5742 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2025

PRESENT

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRL.OP(MD). No.5742 of 2025

K.Ramesh

... Petitioner / Accused No.3

Vs.

The State of Tamil Nadu rep by
The Inspector of Police,
Pattukkottai Police Station,
Thanjavur District.
(Crime No.159 of 2003)

... 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.159 of 2003 on the file of the respondent police.

For Petitioner : Mr.P.Balamurugan,
Advocate

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



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ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioner on 25.03.2025 under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying to grant an order of pre-arrest bail.

2. The petitioner is arrayed as Accused No.3 and he apprehends arrest at the hands of the respondent-police for the offence punishable under Sections 341 and 324 of Indian Penal Code, 1860, in Crime No.159 of 2003 on the file of the respondent-police.

3. The case of the prosecution is that the defacto complainant completed his 12th standard at Pattukkottai. Thereafter, he was employed at Paritha Telephone Booth. Every night, the defacto complainant would go to his employer's house and hand over the daily collection amount from the telephone booth. On 06.03.2003, at about 10:00 p.m., the defacto complainant, along with his friend Balasubramanian, went to his employer's house and handed over a sum of Rs.3,000/-. While they were returning on a TVS 50 two-wheeler, at around 10:15 p.m. near the Vivekananda Nagar Telephone Office, one Sathiyamoorthy, Raja, and two others intercepted and



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waylaid the defacto complainant and assaulted him. As a result, the defacto complainant sustained injuries. Hence, the respondent-police registered a case in Crime No.159 of 2003 on the file of the respondent-police station for the offences punishable under Sections 341, 324 and 506(ii) of IPC.

4. Mr.P.Balamurugan, the learned counsel for the petitioner, submits that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He further submits that respondent-police filed charge sheet and the same was taken on file as C.C.No.1115 of 2006. He further submits that no summon was served on the petitioner and the learned Magistrate without following proper procedure issued Non-bailable Warrant against the petitioner and this petitioner apprehends that if he surrenders before the Magistrate, he/she may remand the petitioner. Hence, he seeks a pre-arrest bail. He, however, submits that the petitioner is also 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, submits that a charge sheet has



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been filed for the offences punishable under Sections 341 and 324 of the Indian Penal Code, 1860, which are bailable in nature. He further submits that the petitioner, despite repeated summons, failed to appear before the learned Judicial Magistrate, resulting in the issuance of a Non-Bailable Warrant against him. He contends that, since the offences alleged are bailable, this petition filed under Section 482 of the Bharatiya Nyaya Sanhita, 2023 (corresponding Section is 438 of the Code of Criminal Procedure), is not maintainable. The petitioner may surrender before the Judicial Magistrate Court and seek recall of the Non-Bailable Warrant issued against him. Hence, the petition is liable to be dismissed. Accordingly, he prays to dismiss this Criminal Original Petition.

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

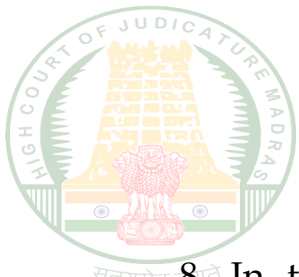
7. On perusal of the records, it is revealed that the respondent police registered a case against the petitioner and others for the offences punishable under Sections 341, 324, and 506(ii) of the Indian Penal Code, 1860. The alleged occurrence took place on 06.03.2003. The petitioner's name does not find a place in the FIR. After completing the investigation, the respondent police filed the charge sheet before the Judicial Magistrate, Pattukkottai, against the petitioner and others and the same is



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taken on file in C.C. No. 1115 of 2006 for the offences punishable under Sections 341 and 324 of IPC. It is to be noted that the offence under Section 506(ii) IPC was deleted from the charge sheet. On perusal of e-Court website, it is seen that till 22.01.2025, no summons was served on the petitioner. In these circumstances, issuance of a Non-bailable Warrant is bad in law. Further, in view of the judgment in Venkatesh Babu and Others -vs- State, reported in 2008 SCC OnLine Mad 1466 : (2009) 1 LW (Crl) 80, a pre-arrest bail petition under Section 482 of the Bharatiya Nyaya Sanhita, 2023 (corresponding Section is 438 of the Code of Criminal Procedure), is not maintainable in respect of the case involving bailable offences, even if there is an apprehension of arrest in execution of a Non-Bailable Warrant. Considering the fact that the offences in the charge sheet are bailable in nature, this Court directs the petitioner to surrender before the learned Judicial Magistrate, Pattukkottai, within a period of fifteen (15) days from the date of receipt of a copy of this order. On such surrender, the petitioner is at liberty to file a petition to recall the Non-bailable Warrant. In such an event, the learned Judicial Magistrate is directed to consider the recall petition on the same day, in accordance with law.



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8. In the result, this Criminal Original Petition stands dismissed as not maintainable.

sd/-
27/03/2025

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/05/2025

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

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To

1. The Judicial Magistrate,
Pattukkottai, Thanjavur District.
2. The Chief Judicial Magistrate,
Thanjavur District @ Kumbakonam.
3. The Inspector of Police,
Pattukkottai Police Station,
Thanjavur District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.P.BALAMURUGAN, Advocate (SR-3639[I] dated 28/03/2025)

ORDER
IN
CRL OP(MD) No.5742 of 2025
Date :27/03/2025

VN/09.05 .2025 6P/6C

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