



CRL OP(MD). No.6633 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 09/04/2025

PRESENT

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

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1.Allavuden

2.Raja Mohamed

3.Basuludeen

4.Masoodu

5.Mani Sahul @ Sahul Hameed @ Abu Koraira

6.Kamal Mohaideen

... Petitioners/ Accused Nos.3, 5,
11, 13, 25 and 27

Vs

The State of Tamilnadu,
Rep by the Inspector of Police,
Tenkasi Police Station,
Tenkasi District.
Crime No.461 of 2007

... Respondent/Complainant



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For Petitioners
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For Respondent

: Mr.SMA.Jinnah,
Advocate
: Mr.K.Sanjai Gandhi,
Government Advocate (Criminal Side)

PRAYER :-

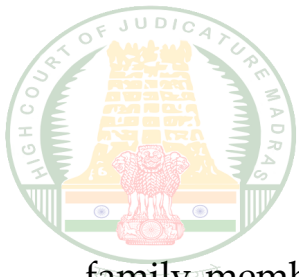
To enlarge the petitioners on bail in the event of their arrest or surrender in S.C.No.02 of 2010 pending before the learned Special Additional District and Sessions Judge for Communal Clash Cases, Madurai.

ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioners on 07.04.2025 under Section 482 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying to grant pre-arrest bail.

2. The petitioners / Accused Nos.3, 5, 11, 13, 25 and 27, apprehend arrest at the hands of the respondent-Police, who are facing trial in S.C.No.02 of 2010 pending on the file of the learned Special Additional District and Sessions Judge for Communal Clash Cases, Madurai, for the offences punishable under Sections 147, 148, 341, 302 and 307 of Indian Penal Code, 1860 in connection with Crime No.461 of 2007, on the file of the respondent-police, seek pre-arrest bail.

3. The case of the prosecution is that due to communal clash between the petitioners and the family members of the defacto complainant, the petitioners along with other accused persons unlawfully assembled at the place of occurrence on 14.08.2007, at about 10.15 a.m., with deadly weapons. They allegedly attacked the



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family members of the defacto complainant with those weapons, causing grievous injuries that led to the death of three persons and an attempted murder of two others. Hence, the case.

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4. Mr.SMA.Jinnah, learned counsel appearing for the petitioners, submits that the petitioners are facing trial in S.C.No.2 of 2010 before the learned Special Additional District and Sessions Judge for Communal Clash Cases, Madurai. He further submits that earlier the petitioners were arrested and released on bail, and due to their non-appearance before the trial Court on 03.04.2025, non bailable warrant was issued against the petitioners. He further submits that the petitioners have not been secured till date. He further submits that the petitioners had filed a recall petition before the trial Court, which was dismissed by the trial Judge. He further submits that the petitioners had been regularly appearing before the trial Court prior to 03.04.2025 and that the third, fifth and sixth petitioners were admitted in the hospital on 03.04.2025. He further submits that the fifth petitioner is still in hospital and taking treatment. He further submits that the sixth petitioner is an age old person. In these circumstances, without adhering the principles of natural justice, the trial Court issued non bailable warrant against the petitioners. Therefore, he prays for granting pre-arrest bail to the petitioners.

5. Per contra, Mr.K.Sanjai Gandhi, learned Government Advocate (Criminal



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Side) appearing for the respondent-Police, submits that if pre-arrest bail is granted to the petitioners, they may abscond and thereby cause delay in the trial proceedings and also may cause threat to the defacto complainant and the witnesses. Hence, he strongly opposes to grant pre-arrest bail to the petitioners.

6. Heard on both sides. This Court has perused the case file.

7. Further , the petitioners have permanent residence and deep roots in the society, and hence, there is less possibility of absconding. In view of the submission made by the learned counsel for the petitioners and the reason given by the petitioners for their non-appearance before the trial court which appears to be quite reasonable, this Court is of the opinion that one more opportunity may be granted to the petitioners to appear before the trial Court and co-operate with the trial. Hence, this Court is inclined to grant pre-arrest bail to the petitioners, however, subject to certain conditions. 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 Special Additional District and Sessions Judge for Communal Clash Cases, Madurai, 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 Special Additional District and Sessions Judge for Communal Clash Cases,



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Madurai;

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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 Special Additional District and Sessions Judge for Communal Clash Cases, Madurai, shall obtain a copy of any one of identity proofs to ensure their identity;

(iii) The petitioners shall appear and sign before the learned Special Additional District and Sessions Judge for Communal Clash Cases, Madurai, weekly twice (i.e., on Monday and Friday) until further orders and shall appear before the trial Court on all hearing dates without fail;

(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 leave India without the previous permission of the Court;

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

(viii) The petitioners shall furnish their residential address and mobile number to the learned Special Additional District and Sessions Judge for Communal Clash Cases, Madurai; and

(ix) On breach of any of the aforementioned conditions, the learned Special Additional District and Sessions Judge for Communal Clash Cases, Madurai, or Trial Court, as the case may be, is entitled to pass appropriate orders against the



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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].

8. Considering the ailments and age of the fifth and sixth petitioners, if they file a petition under Section 355 of BNSS, 2023, before the trial Court, the learned trial Judge shall consider the same in accordance with law.

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

sd/-
09/04/2025

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

TSG

TO

1.The Special Additional District and Sessions
Judge for Communal Clash Cases, Madurai.



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2.The Inspector of Police,
District Crime Branch,
Theni District.

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

+1 CC to M/s.S.M.A.JINNAH, Advocate (SR-4192[I] dated 15/04/2025)

ORDER
IN

CRL OP(MD) No.6633 of 2025
Date :09/04/2025

VN/05.05 .2025 7P/5C

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