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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 23/04/2025

PRESENT

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

CRL OP(MD). Nos.7142 and 7076 of 2025

Mohamed Asif

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... Petitioner/ Accused No.1
in CrI.O.P(MD).No.7142 of 2025

Maheen Aboobaker

... Petitioner/ Accused No.4
in CrI.O.P(MD).No.7076 of 2025

Vs

The State of Tamilnadu,
Rep By, The Inspector of Police,
Boothapandy Police Station,
Kanniyakumari District.
Cr.No.61 of 2023.

... Respondent/ Complainant in both cases

For Petitioners : Mr. N. Mohideen Basha
Advocate.

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

PETITION FOR ANTICIPATORY BAIL Under Sec.482 of BNSS



PRAYER :-

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To enlarge the petitioners / Accused on bail in the event of their arrest in C.C.No.209/2023 on the file of the District Munsif cum Judicial Magistrate Court, Boothapandy, Kanniyakumari District.

COMMON ORDER : The Court made the following order :-

These Criminal Original Petition have been filed by the petitioners on 16.04.2025 under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying to grant an order of pre-arrest bail.

2. The petitioners / accused Nos.1 and 4 are facing trial in CC.No.209 of 2023 on the file of District Munsif cum Judicial Magistrate, Boothapandy, Kanyakumari District, arising out of Crime No.61 of 2023 on the file of the respondent-police. The petitioners apprehend arrest at the hands of respondent-police in connection with aforesaid crime number.

3. The case for the prosecution is that on 10.03.2023, while the defacto complainant went to Thalakudi from Vadaseri for his business by car, near Vadaseri Anna Statute, A1 stopped the car and requested lift to near Iraichakulam. The defacto complainant acceded to his request and picked him in his car. Before



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reaching Iraichakulam, near Nondipalam, A1 asked to stop the car. When the defacto complainant stopped the car, accused came near the car and took the car key and snatched the mobile phone and a gold chain worth about Rs.80, 000/- . Further, accused persons caused threat the defacto complainant and forced to disclose his google pay details and transferred illegally a sum of Rs.73,000/- through multiple transactions. Hence, this case.

4. Mr.N.Mohideen Basha, 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 they have been falsely implicated in this case. He, however, submits that the petitioners are ready to abide 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 (Crl. side) appearing for the respondent-police, submits that A2 and A3 have already been arrested and a sum of Rs.10,000/- has been recovered from them. He further submits that amount transferred through mobile phone is not yet recovered. He further submits that investigation of the case is still pending and therefore, at this stage, if the petitioners are granted pre-arrest bail, they may abscond and tamper



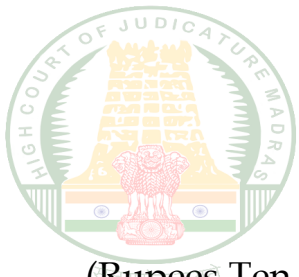
with the evidence. Hence, he prays to dismiss this Criminal Original Petitions.

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

7. In this case, investigation completed and charge sheet was filed and the same was taken on file as C.C.No.209 of 2023 on the file of District Munsif cum Judicial Magistrate, Boothapandi. In view of the offence alleged against the petitioners and that the occurrence took place in the year 2023, this Court is of the view that custodial interrogation of the petitioners is not necessary in this case. The petitioners have permanent residence and therefore, there is less possibility for absconding. Considering the above, and also considering the nature of allegations against the petitioners, and with a view to give an opportunity to the petitioners to reform themselves, 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, Boothapandy, Kanniyakumari District, 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 said Magistrate.

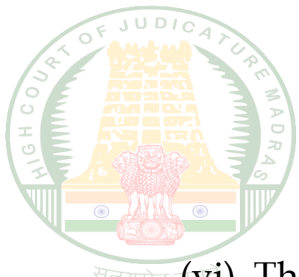
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(ii) Each of the petitioners shall deposit a sum of Rs.35,000/- (Rupees Thirty Five Thousand only) to the credit of Crime No.61 of 2023 before the learned Judicial Magistrate, Boothapandy, Kanniyakumari District, without prejudice to their rights and contentions before the Trial Court and produce the receipt/acknowledgment before the concerned Court while executing sureties. On such deposit, the said Magistrate is directed to deposit the said amount in any one of the Nationalized Banks in a fixed deposit scheme for a period of one year and thereafter, renew the same till the conclusion of trials. The learned Judicial Magistrate / Trial Court shall pass orders *qua* entitlement of amount in its final Judgment / orders.

(iii) 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 identity proof of each surety to ensure their identity.

(iv) The petitioners shall report before the learned Judicial Magistrate, Boothapandy, Kanniyakumari District weekly twice ie., on every Monday and Friday at 10.30 am until further orders;

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



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(vi) 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.

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

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

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

(x) The petitioners shall not, directly, or indirectly, cause threat to the defacto complainant and tamper with the evidence.

(xi) On breach of any of the aforementioned conditions, the learned Judicial Magistrate or Trial Judge, 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 them as laid down by the Hon'ble Supreme Court in *P.K. Shaji vs. State of Kerala [(2005) 13 SCC 283]*.



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

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Sd/-

23/04/2025

// True Copy //

/2025

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

TRP

TO

1. The Judicial Magistrate, Boothapandy,
Kanniyakumari District.
2. Do-Through The Chief Judicial Magistrate,
Kanyakumari District.
3. The Inspector of Police,
Boothapandy Police Station,
Kanniyakumari District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+2 CC to M/s.N.MOHIDEEN BASHA, Advocate (SR-4720 & 4721[I] dated
24/04/2025)

<https://www.mhc.tn.gov.in/judis>



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CRL OP(MD). Nos.7142 and 7076 of 2025
Date : 23/04/2025

KVL/26.05.2025 8P/7C

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