

Cr1.O.P (MD) No.10438 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 22.09.2025

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Cr1.O.P(MD)No.10438 of 2025

Mahalingam @ Nondi Mahalingam

... Petitioner/ Accused

vs.

The Tamilnadu State rep. by
The Inspector of Police,
Q Branch,
Theni District.
Crime No.111/2007

... Respondent/Complainant

Prayer:- Petition filed under Section 483 of the Bharatiya Nyaya Sanhita (BNSS), 2023, to enlarge the petitioner/accused on bail in S.C.No.122/2016 on the file of the learned Principal Sessions Judge, Theni.

For Appellant	: Mr.A.Jayaramachandran
For Respondent	: Mr.T.Senthil Kumar
	Additional Public Prosecutor



Cr1.O.P (MD) No.10438 of 2025

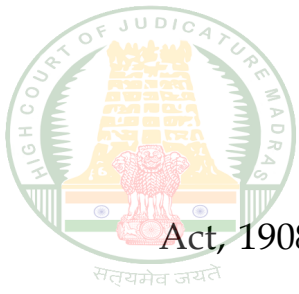
ORDER

(Order of the Court was made by P.VELMURUAN, J.)

WEB COPY

This petition is filed to enlarge the petitioner/accused on bail in S.C.No.122/2016 on the file of the learned Principal Sessions Judge, Theni.

2. The facts of the case are that on 19.12.2007, when the Special Task Force of Tamilnadu along with Theni District Police were involved in combing operation against the Maoists, the petitioner and others who were camped near Pallathur sugarcane field, started firing against the police and the police force also retaliated, in which, the petitioner and others sustained injury and they were arrested, arms and ammunition were recovered from them and they were remanded to judicial custody in Crime No.111/2007. Thereafter, the case was handed over to the respondent herein and after completion of investigation, charge sheet was laid for the offences under Sections 120 (B), 121, 122, 124 (A), 332, 307, r/w. 149 IPC, Sections 13 (i) (a) (b) of Unlawful Activities (Prevention) Act, 1967, Sections 3, 4, 5 of Arms Act, 1959, Section 9 (B) (1-B) of Explosives Act, 1884 and Section 17(1) (2) of CLA



Cr1.O.P (MD) No.10438 of 2025

Act, 1908 on 12.02.2013. The charge sheet was taken on file against the petitioner in S.C.No.122/2016 on the file of Additional District and Sessions Court, Periyakulam. Thereafter, the trial was completed and the case was posted for judgment on 08.09.2022. However, since the Hon'ble Apex Court was pleased to order all the cases involving the offence under section 124-A of IPC to be kept in abeyance vide order in W.P(Civil)No.682/2021, the present case in S.C.No.122/2016 is also kept in abeyance. Subsequently, when the petitioner preferred bail application in Cr.M.P.No.30/2024, the trial Court after hearing, concluded that it was not the competent court to try the case and transferred the same to the Principal Sessions Court where a new number i.e., Cr.M.P.No.2693/2024 was assigned for the petitioner's bail application. In the said criminal miscellaneous petition, the petitioner contended that there is no progress in the trial as the matter is sub-judiced before the Apex Court and therefore, the judicial custody of the petitioner is no more required. The respondent objected to the bail application contending that though originally the petitioner was granted bail, he violated the conditions and absconded and hence proceedings were initiated to declare him as proclaimed offender. Thereafter, in

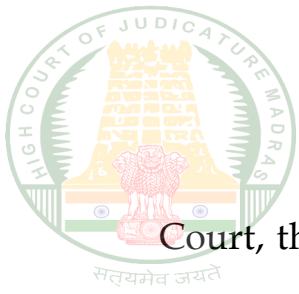


Cr1.O.P (MD) No.10438 of 2025

2016, he was secured and remanded to judicial custody. After hearing

both sides, the Court below dismissed the said bail application by order dated 21.11.2024. Hence, this petition.

3. The learned counsel for the petitioner would submit that the trial was already completed and the case was posted for judgment on 08.09.2022. Since the Hon'ble Apex Court was pleased to order all cases involving offence under section 124-A of IPC to be kept in abeyance vide order in W.P(Civil)No.682/2021, the present case in S.C.No.122/2016 also has been kept in abeyance. Therefore, the petitioner preferred the bail application before the trial Court, but the same was dismissed by the trial Court. He would further contend that the trial Court has committed a grave error in citing pendency of six cases in Kerala State against the petitioner without appreciating the fact that out of 6 cases, 1 case is not in existence and the petitioner has already been granted bail in 3 cases. He would also contend that the trial Court failed to consider the principle that the bail is the rule and jail is an exception and the petitioner was co-operating for the trial and the trial was also over. However, only due to the direction of the Supreme



Cr1.O.P (MD) No.10438 of 2025

Court, the case is pending. Since the trial was over, incarceration of the

petitioner is not necessary and the petitioner will not tamper the witnesses and hamper the investigation and no prejudice will be caused if the petitioner is released on bail. Thus, the learned counsel would pray for granting bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that earlier when the petitioner was released on bail, he was absconding for more than six years and was declared as a proclaimed offender. While he was absconding, he was involved in six cases in Kerala State and he was secured and remanded on 25.07.2016. Thereafter, the trial Court was able to complete the trial and arguments were also over. Only due to the direction of the Apex Court, the trial Court is unable to pronounce the judgment. Thus, he would submit that if the petitioner is again released on bail, there is a possibility of being involved in several other cases. Hence, he would pray for dismissal of this petition.

5. Heard both sides and perused the records.



WEB COPY

6. Admittedly, a case in S.C.No.122/2016 for the offences

under Sections 120 (B), 121, 122, 124 (A), 332, 307, r/w. 149 IPC, Sections 13 (i) (a) (b) of Unlawful Activities (Prevention) Act, 1967, Sections 3, 4, 5 of Arms Act, 1959, Section 9 (B) (1-B) of Explosives Act, 1884 and Section 17(1) (2) of CLA Act, 1908, is pending against the petitioner. In the said case, trial was over and after hearing the arguments on either side, the case has been posted for judgment.

7. Perusal of record shows that originally the petitioner was enlarged on bail from 14.01.2010 and he was directed to sign before the respondent/police. Since the petitioner violated the conditions imposed and was absconding, proceedings were initiated against him and he was declared as a proclaimed offender. Thereafter, he was secured in the year 2016 and the trial Court was able to complete the trial. After hearing the arguments on either side, the case was posted for judgment. However, due to the directions of the Apex Court that all the cases involving the offence under Section 124-A of IPC to be kept in abeyance vide order in W.P(Civil)No.682/2021, the trial Court is not able to dispose the case on merits and the same is pending. Considering the



Cr1.O.P (MD) No.10438 of 2025

antecedents of the petitioner, this Court is not inclined to interfere with the order passed by the trial Court in Cr.M.P.No.2693/2024 dated 21.11.2024 and not inclined to grant bail.

8. Accordingly, this Criminal Original Petition is dismissed.

[P.V, J.] [L.V.G, J.]
22.09.2025

Index : Yes / No
Neutral Citation : Yes / No
bala

To

1. The Principal Sessions Judge,
Theni.

2. The Inspector of Police,
Q Branch, Theni District.
Crime No.111/2007

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

4. The Section Officer
Criminal (Records) Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Cr1.O.P (MD) No.10438 of 2025

P.VELMURUGAN, J.
AND
L.VICTORIA GOWRI, J.

bala

ORDER MADE IN
Cr1.O.P(MD)No.10438 of 2025
DATED : 22.09.2025