



CRL RC(MD)No.809 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.07.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL RC(MD)No.809 of 2025

Napoleon

... Petitioner / Petitioner /
Sole Accused

Vs.

State of Tamilnadu,
Rep. by the Inspector of Police,
District Crime Branch,
Thanjavur District.
(Crime No.6 of 2025)

... Respondent / Respondent /
Complainant

PRAYER: Criminal Revision Petition is filed under Section 438 r/w 442 of BNSS, to set aside the order dated 04.06.2025 passed in CrI.M.P.No. 560 of 2025 on the file of the learned Judicial Magistrate No.1, Kumbakonam, dismissing the application filed under Section 187(3)(ii) of BNSS Act and grant bail to the petitioner.

For Petitioner : Mr.A.Saravanan

For Respondent : Mr.M.Sakthi Kumar,
Government Advocate

ORDER

Challenging the order passed by the learned Judicial Magistrate



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No. 1, Kumbakonam, in Crl.M.P. No. 560 of 2025, dated 04.06.2025,
this Criminal Revision Case has been filed.

2. The petitioner had filed a bail application under Section 187(3) (ii) of the Bharatiya Naharik Suraksha Sanhita, 2023, which was taken up for hearing on 03.06.2025. The petitioner was arrested for offences under Sections 318(4) and 351(2) of the BNS Act, in connection with the First Information Report registered in Crime No.6 of 2025 by the respondent police, and was remanded to judicial custody on 03.04.2025.

3. On 01.06.2025, sixty days of judicial custody had elapsed, and on the sixty-first day, that is, on 02.06.2025, the petitioner filed Crl.M.P. No. 560 of 2025 seeking bail; the same was taken up for hearing on 03.06.2025. On that day, the respondent police filed a counter affidavit, in which it was not stated that the final report had been filed before the learned trial court. However, it appears that on 03.06.2025, after the filing of the counter affidavit, the final report in the said case was e-filed before the trial court in CC/LTN/2022/000 2105/C/2025/0012. Although this fact was not mentioned in the



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counter affidavit, it was informed to the learned trial court by the Inspector of Police who investigated the case.

4. The prosecution's case is that the Government acquired land belonging to the son-in-law of the de facto complainant, for which compensation of Rs.54 lakhs was awarded. On learning this fact from the de facto complainant and his son-in-law, the accused contacted the de facto complainant by mobile phone, falsely claiming to be a close relative of the Thanjavur District Collector, namely, Sri Pankajam. He threatened that, in connection with the alleged felling of teak trees on the complainant's farm, a First Information Report would be registered against the complainant and his son-in-law at Pandanallur Police Station unless Rs.1 crore was paid. He further threatened that, in default, they would be booked under the Goondas Act and remanded to judicial custody in such a way that bail would be impossible.

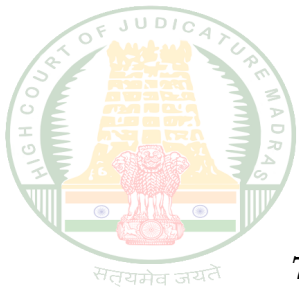
5. Fearing these threats, on 08.03.2025 the de facto complainant paid 0.25 crore, and on 10.03.2025 paid another 0.55 crore; on 12.03.2025 he paid 0.20 crore totalling 1 crore. On 27.03.2025, at about 8 p.m., upon receipt of this amount, the accused again



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threatened the de facto complainant, demanding an additional amount of Rs.1 crore to be paid by 04.04.2025. On the basis of this, a complaint was lodged, and on 02.04.2025 at about 10. p.m. the accused was arrested; Rs.1,31,9,540/- and relevant documents were also recovered. A vigilance case has since been registered against the accused by the Vigilance Bureau, Karur District. Hence, the prosecution contended that release on bail would enable the accused, an Inspector of Police, to interfere with the investigation. Considering the grave nature of the offence, the filing of the final report, and the large value involved, the learned trial court dismissed the bail application in Crl.M.P. No. 560 of 2025 by order dated 04.06.2025. This revision is now preferred against that order.

6. The learned counsel for the petitioner submitted that the trial court erred in dismissing the bail petition under Section 187(3)(ii) of the BNSS Act, 2023, and that the petitioner had already been incarcerated for more than sixty days. He pointed out that the counter affidavit did not disclose that the investigation was complete or that a chargesheet had been filed, yet the order wrongly recorded that a chargesheet was on file.



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7. Per contra, the learned Additional Public Prosecutor contended that the accused, being an Inspector of Police, had abused his position to extort a large amount from the complainant, and that, if released, he would tamper with evidence and intimidate witnesses. He urged dismissal of the revision.

8. On perusal of the materials, it is undisputed that the petitioner was remanded on 03.04.2025 and that sixty days of custody expired on 01.06.2025. The bail application was filed on 02.06.2025 and heard on 03.06.2025, the counter affidavit having been filed the same day; the order dismissing bail was passed on 04.06.2025. Although the trial court noted that a chargesheet had been filed, the record shows that the chargesheet was e-filed only on the sixty second day of custody after the expiry of the sixty days period prescribed by Section 187(3)(ii) of the BNSS Act. It is well settled that the accused's statutory right to default bail cannot be defeated by belated filing of the chargesheet.

9. This Court has dealt with a similar case of statutory appeal in CRL MP(MD)No.18723 of 2021 dated 06.12.2021 and the relevant portion of the same is extracted as follows:

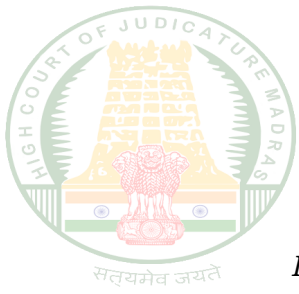


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“15. There is a misconception that in cases where the bail petition under Section 167 (2) Cr.P.C and the charge sheet are being filed on the same day, then the time at which, bail petition or the charge sheet is filed, is the deciding factor and that if the charge sheet is filed earlier to the bail petition, then the accused is not entitled to get the statutory bail or in case, if the bail petition is filed before laying of charge sheet, then the bail application has to be allowed. The accused is entitled to file his application for default bail only after the expiry of 60 days or 90 days or 180 days as the case may be and that his right to avail the statutory bail accrues only on the next day i.e., on 61st, 91st or 181st day, as the case may be, but the investigating agency has to file the charge sheet before the expiry of 60 days, 90 days or 180 days as the case may be, if they require the detention of the accused beyond the prescribed period of 60 or 90 or 180 days.

25. As already pointed out, the investigating agency is duty bound to file their final report before expiry of 60 or 90 or 180 days, as the case may be, and on the next day i.e, 61st or 91st or 181st day only, the right to apply for statutory bail gets accrued to the accused and there must be accrued to some reasonable time limit enabling him to apply for the default bail.



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In Tamil Nadu, all the Courts shall ordinarily sit at 10.30. a.m.

If the investigating agency files the chargesheet by 10.30 a.m., on the next day, after the expiry of the period prescribed under Section 167(2) Cr.P.C, can we say that the accused has lost his right of filing the petition for default bail subsequently, on the same day. In my considered view, the accused can exercise his right to apply the default bail on the whole day, on which, the indefeasible right to apply the statutory bail accrues to him.”

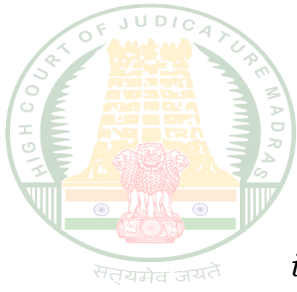
10. Fully fortified by the above, the impugned order of dismissal of bail is set aside. The petitioner shall be released on bail upon executing a bond for Rs.25 lakhs with two sureties, to the satisfaction of the learned Judicial Magistrate No. 1, Kumbakonam, on the following conditions:

i) *The sureties shall affix their photographs and leftthumb impressions on the bond, and the Magistrate may verify their identity through Aadhaar or bank passbook.*

ii) *The petitioner shall report to to Judicial Magistrate No. 2, Kumbakonam, daily at 10:30 a.m., unless otherwise directed.*

iii) *The petitioner shall not abscond during investigation or trial.*

iv) *The petitioner shall not tamper with evidence or*



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intimidate witnesses.

v) On breach of any condition, the learned Magistrate/Trial Court is empowered to take appropriate action as provided by law. This order is passed in accordance with the principles laid down by the Honourable Supreme Court in P.K. Shaji v. State of Kerala, (2005) AIR SCW 5560.

11. With these directions, the Criminal Revision is allowed.

17.07.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

- 1.The Judicial Magistrate No.1,
Kumbakonam.
- 2.The Inspector of Police,
District Crime Branch,
Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.,

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