

CrI.O.P(MD).No.13322 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Reserved on : 25.08.2025

Pronounced on : 12.09.2025

PRESENT

**THE HONOURABLE MR.JUSTICE P.VADAMALAI**

**CrI.O.P(MD).No.13322 of 2025**

**and**

**CrI.M.P(MD)No.11115 of 2025**

Kandasamy  
S/o.Subramaniam

... Petitioner/Accused No.2

Vs.

The State of Tamil Nadu rep by  
The Inspector of Police,  
All Women Police Station,  
Ambasamudram,  
Tirunelveli District.  
(Crime No.24 of 2025)

... Respondent/Complainant

**PRAYER:** Criminal Original Petition filed under Section 482 of BNSS, to enlarge the petitioner/A2 on bail in the event of his arrest or surrender in Crime No.24 of 2025 on the file of the respondent police.

|                |                                                  |
|----------------|--------------------------------------------------|
| For Petitioner | : Mr.K.P.Narayanakumar<br>Advocate               |
| For Respondent | : Mr.S.Prakash<br>Government Advocate (CrI.side) |
| For Intervenor | : Mr.R.Anand<br>Advocate                         |



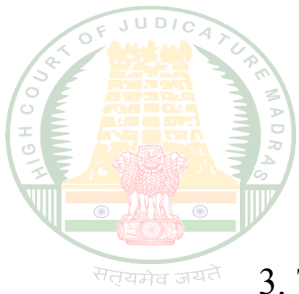
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## **ORDER**

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The petitioner seeks anticipatory bail upon the apprehension of arrest at the hands of the respondent police for the alleged offences U/s.332(b), 351(2) of BNS, 2023 and U/s.11(4), 13, 3, 4, 21(1), 21(2) of POCSO Act and U/s.3(1)(W)(I) of SC/ST (Prevention of Atrocities) Act, 1989 altered with 3(1)(W)(a) and 3(2)(va) of SC/ST (Prevention of Atrocities) Act, 1989, in Crime No.24 of 2025 on the file of the respondent police.

2. The case of the prosecution is that the defacto complainant belongs to the Scheduled Caste Community. Her daughter is minor and is studying in Theerthapathy Higher Secondary School, Ambasamuthiram. The petitioner is the secretary/correspondent of that school. It is alleged that Accused No.1/Manikumar, who is the school driver of the petitioner, committed rape upon that minor girl on 06.07.2025 and that on 10.07.2025, the petitioner called on the defacto complainant and asked him not to complain the incident before the police, because it would defame the school's reputation and later Accused No.3/Head Master issued TC to the defacto complainant. Hence, the case is registered.



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3. The learned counsel for the petitioner has submitted that the petitioner is correspondent of Ambasamuthiram Theerthapathy Higher Secondary School and also holding the post of presidentship in Ambasamuthiram Bar Association. Accused No.1/Manikumar is his driver. Neither the victim nor Accused No.1/Manikumar informed about the alleged occurrence to petitioner prior to registering of this case on 01.08.2025. The alleged occurrence is said to have been taken place on 06.07.2025, the complaint was lodged on 01.08.2025 after lapse of more than 25 days, and there is no reason for the delay. The overtact against the petitioner is that he intervened and asked the defacto complainant and victim not to give complaint. The petitioner never asked the defacto complainant to concede the alleged crime committed by Accused No.1. The contents of the complaint and FIR do not disclose any overtact against the petitioner for any offence under the provisions of SC/ST (Prevention of Atrocities) Act, 1989. So, there is no bar for granting anticipatory bail and in support of this contention, the learned counsel for the petitioner relied on the verdict of the Hon'ble Supreme Court reported in **2024 SCC Online SC 2249** in the case of **Shajan Skaria /v/ State of Kerala** and another. The learned counsel quoted the legal proposition held in paragraph Nos.13, 34 and 35 as follows:



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*"13. Having heard the learned counsel appearing for the parties and having gone through the materials on record, the following issues fall for our consideration:*

*a. Whether Section 18 of the Act, 1989 imposes an absolute bar on the grant of anticipatory bail in cases registered under the said Act?*

*34. Justice S. Ravindra Bhat, while concurring with the judgment rendered by Justice Mishra, assigned his own reasons which are reproduced herein below:*

*"32. As far as the provision of Section 18-A and anticipatory bail is concerned, the judgment of Mishra, J. has stated that in cases where no prima facie materials exist warranting arrest in a complaint, the court has the inherent power to direct a pre-arrest bail.*

*33. I would only add a caveat with the observation and emphasise that while considering any application seeking pre-arrest bail, the High Court has to balance the two interests : i.e. that the power is not so used as to convert the jurisdiction into that under Section 438 of the Criminal Procedure Code, but that it is used sparingly and such orders made in very exceptional cases where no prima facie offence is made out as shown in the FIR, and further also that if such orders are not made in those classes of cases, the result would inevitably be a miscarriage of justice or abuse of process of law. I consider such stringent terms, otherwise contrary to the philosophy of bail, absolutely essential, because a liberal use of the power to grant pre-arrest bail would defeat the intention*



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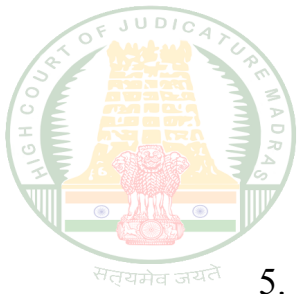


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*of Parliament.”*

*35. Thus, the decision in Prathvi Raj Chauhan (supra) makes it abundantly clear that even while upholding the validity of Section 18-A of the Act, 1989, this Court observed that if the complaint does not make out a prima facie case for applicability of the provisions of the Act, 1989 then the bar created by Sections 18 and 18-A(i) shall not apply and thus the court would not be precluded from granting pre-arrest bail to the accused persons.*

4. The learned counsel for the petitioner further submitted that there is no specific overtact against the petitioner and the petitioner has not committed any offence as alleged by the prosecution. The victim girl has given a statement U/s.183 of BNSS, and there is no allegation against the petitioner in that statement. The petitioner has also produced a copy of that statement. Accused No.1 and the victim had love affairs and because of their love affairs, the complaint has been lodged by the defacto complainant, by inducement by others to defame the reputation of the petitioner's school name. Accused No.3, who was the principal of the school, was arrested and released on bail. The petitioner is ready to abide any condition imposed by this Court. Therefore, the petitioner may be granted anticipatory bail.



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5. The learned Government Advocate (Criminal Side) appearing for the respondent police would submit that the victim is aged 14 years and was studying 10<sup>th</sup> STD the victim gave a statement U/s.183 of BNSS about the intervention of the petitioner not to give a complaint. Accused No.1 is still in custody. The investigation is pending. Therefore, this petition may be dismissed.

6. The learned counsel for the intervenor has submitted that the intervenor/defacto complainant is poor lady, who belonged to Scheduled Caste community. The victim girl is daughter of intervenor and she is minor, studying in the petitioner's school. The victim was committed rape by the driver of the petitioner, who threatened the defacto complainant by saying that in case she lodges complaint against Accused No.1, he would exert his influence and get him out and that the intervene petitioner will face the dire consequences. Hence, the petitioner is not entitled for anticipatory bail. The petition may be dismissed.

7. Heard and perused the available records. It is seen from the records that the petitioner is the secretary/correspondent of Theerthapathy Higher



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Secondary School, Ambasamuthiram. The daughter of the defacto complainant is studying in that school. It is alleged that Accused No.1/Mainkumar, who is the driver of the petitioner, forcibly committed rape upon the victim at daylight time. The alleged occurrence took place on 06.07.2025. The complaint was lodged on 01.08.2025. It is admitted that the victim girl gave a statement U/s.183 of the BNSS and certified copy of the same has been produced in this case. On perusal of the same, it is revealed that

*"AI Manikumar went inside of the house of victim at 2.00 p.m on 06.07.2025, at that time the victim was watching TV, the AI had touch on her chest, on her alarm he ran out. it is further revealed that the victim girl with her mother met the petitioner and Head Master, who told them to get TC and to admit her in another school, ie., Rani School as they spoke to that school".*

So, there is no specific overtact against the petitioner/Accused No.2 attracting the provisions of the SC/ST Act, and there is no *prima facie* case against the petitioner. At this juncture, as per the citation relied on by the petitioner's side, reported in **2024 SCC Online SC 2249** in the case of **Shajan Skaria /v/ State of Kerala**, there is no bar to grant anticipatory bail. As per

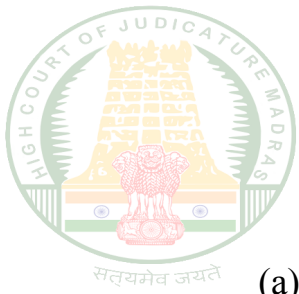


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the contents of FIR and statement U/s.183(5) of BNSS, there is no prima facie case made out against the petitioner. The other alleged offences could be decided only on the appreciation of evidences by the trial Court. Accused No.3 was arrested and released on bail by the Special Court for POCSO Act Cases. By this time, the material part of the investigation ought to have been done by the investigating agency. Considering the above facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli, failing which, the anticipatory bail granted by this Court shall stand dismissed and on further condition that:



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(a) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(b) The petitioner shall furnish his residential address and contact number to the learned Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli. If the petitioner change his residential address, he shall report the same to the learned Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli;

(c) On release, the petitioner shall appear and sign before the Inspector of Police of respondent police station daily at 10.00 a.m. until further orders;

(d) The petitioner shall not abscond either during investigation or trial and he shall cooperate for the investigation;

(e) The petitioner shall not tamper with evidence or witness either during investigation or trial;

(f) On breach of any of the aforesaid conditions, the learned Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and and if there is any violation of condition, the



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Investigation Officer is within his discretion to approach the Court of the learned Judicial Magistrate, concerned for cancellation of bail as per the ruling of the Hon'ble Supreme Court reported in **P.K.Shaji/Vs/State of Kerala, (2005) AIR S.C.W.5560** and;

(g) if the accused/petitioner thereafter abscond, a fresh FIR can be registered under Section 269 of BNS, 2023.

9. Consequently, the connected Miscellaneous Petition is closed.

**12.09.2025**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
VSD

To

- 1.The Sessions Judge,  
Special Court for POCSO Act Cases,  
Tirunelveli.
- 2.The Inspector of Police,  
All Women Police Station,  
Ambasamudram,  
Tirunelveli District.
3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

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**P.VADAMALAI, J.**

VSD

**Pre - Delivery Order made in**  
**CrI.O.P(MD).No.13322 of 2025**  
**and**  
**CrI.M.P(MD)No.11115 of 2025**

**12.09.2025**