



CrI.OP(MD)No.16236 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06-11-2025

CORAM

THE HONOURABLE MRS JUSTICE S.SRIMATHY

CRL OP(MD) NO. 16236 of 2025

1. MUTHUMANI

2. DHANALAKSHMI

Petitioner(s)

Vs

1.The State of Tamilnadu Rep. by
The Sub Inspector of Police
Kurangani Police Station
Theni District
(Crime No. 40 of 2025)

2. Mahalakshmi

(R2 is suo motu impleaded as per order of this court
dated 29.10.2025 in CrI.OP(MD).16236/2025)

Respondent(s)

For Petitioner(s): Mr.M. Jerin Mathew

For Respondent(s): M/s.M.Aasha, Government Advocate (CrI.side)

Prayer:

C-58AB. For Anticipatory Bail in Crime No. 40 of 2025 on the file of the respondent police.

ORDER

It is seen that the 1st petitioner was already granted anticipatory bail by this Court, vide order, dated 25.09.2025. Hence, the present petition is taken up



Crl.OP(MD)No.16236 of 2025

regarding the 2nd petitioner alone.

WEB COPY

2. The 2nd petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 87, 118(1), 115(2), 351(3) of BNS, Sections 9, 10 of Prohibition of Child Marriage Act, Sections 5(1), 6, 17, 19 of POCSO Act and Sections 3(1), 3(1)(s), 3(2), (Va) of SC/ST Amendment Act, in Crime No.40 of 2025, on the file of the respondent police, seeks anticipatory bail.

3. The case of the prosecution is that the petitioners had created problem with victim and were trying to arrange marriage for the victim unlawfully. Hence the above FIR came to be registered against the petitioners and the other accused persons. Hence, this case.

4. The learned Counsel appearing for the petitioners submitted that the 2nd petitioner has been falsely implicated in this case and she has not committed any offence. He seeks this Court to grant anticipatory bail to the 2nd petitioner also.

5. The learned Government Advocate (Crl. side) appearing for the respondent submitted that the offences committed by the 2nd petitioner are serious in nature. Further submitted that the petitioner is not entitled to anticipatory bail since the case has been registered under SC/ST Act wherein the Act bars from granting



CrI.OP(MD)No.16236 of 2025

anticipatory bail. But the Learned Counsel appearing for the petitioner submitted that there is no bar in granting anticipatory bail, prima facie if the FIR does not disclose the necessary ingredients to constitute the offence, then it ought to be construed that no offence is made out and then person is entitled to bail. The Learned Counsel appearing for the respondents submitted that the prima facie ought to be “in the first blush or in the first impression” as held in Kiran Vs Rajkumar Jivraj Jain and another reported in 2025 Live Law (SC) 869 and at anticipatory bail stage the Court cannot elaborately go into the ingredients of the offence.

6. In Shajan Skaria Vs. State of Kerala and another reported in 2024 SCC OnLine SC 2249 the Hon’ble Supreme Court had framed the issue “whether Section 18 of the Act, 1989 imposes an absolute bar on the grant of anticipatory bail in cases registered under the said Act?” and had held that the same would dependent on whether there is prima facie case is made out or not. And the relevant portion is extracted hereunder:

“46. The aforesaid discussion indicates that the term ‘arrest’ appearing in the text of Section 18 of the Act, 1989 should be construed and understood in the larger context of the powers of police to effect an arrest and the restrictions imposed by the statute and the courts on the exercise of such power. Seen thus, it can be said that the bar under Section 18 of the Act, 1989 would apply only to those cases where prima facie materials exist pointing towards the commission of an offence under the Act, 1989. We say so because it is only when a prima facie case is made out that the pre-arrest requirements as



CrI.OP(MD)No.16236 of 2025

stipulated under Section 41 of CrPC could be said to be satisfied.”

WEB COPY

From the above it is evident that there is no absolute bar and the same is dependent on the fact “whether prima facie the offence is made out”. Therefore, the objection raised by the defacto complainant and the Government Advocate (CrI. Side) is rejected. Consequently, this Court is of the considered opinion that the petition can be entertained.

7. In the present case it ought to be considered whether there is any prima facie case. In the judgment rendered in Shajan Skaria the phrase “prima facie” has been elaborately considered and held as under:

“47. Prima facie is a Latin term that translates to “at first sight” or “based on first impression”. The expression “where no prima facie materials exist warranting arrest in a complaint or FIR” should be understood as “when based on first impression, no offence is made out as shown in the FIR or the complaint”. This means that when the necessary ingredients to constitute the offence under the Act, 1989 are not made out upon the reading of the complaint, no case can be said to exist prima facie.”

The Hon’ble Supreme Court further held that the only test that the Courts ought to apply while considering the pre-arrest bail is whether there is prima facie case is



CrI.OP(MD)No.16236 of 2025

made out and the same ought to be seen whether the ingredients of the provisions are attracted.

8. In the present case the sections that are invoked against the petitioner is sections 3(1)(r), 3(1)(s), 3(2)(va) of the SC/ST Act. First the section sections 3(1)(r), 3(1)(s) shall be considered. The relevant provisions are extracted hereunder:

3. Punishments for offences atrocities. — 3[(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

(a) ...

(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;

(t) ...

As far as the allegations in FIR is concerned the defacto complainant/wife while living with 1st accused as husband and wife at matrimonial home, the petitioners have abused the defacto complainant by calling her caste name. When the occurrence had happened in the home / house then the ingredient “public view” may not be there. Therefore, this Court is of the considered view that the sections 3(1)(r), 3(1)(s) may not be attracted and the prima facie case under sections 3(1)(r), 3(1)(s) are not made out.



CrI.OP(MD)No.16236 of 2025

WEB COPY

9. The next allegation against the petitioner is under section 3(2)(va) and the relevant portion is extracted hereunder:

(2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

(i)...

(va). commits any offence specified in the Schedule, against a person or property, knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with such punishment as specified under the Indian Penal Code (45 of 1860) for such offences and shall also be liable to fine;

(The sub clause (va) was amended by Act 1 of 2016 with effect from 26.01.2016)

The aforesaid section is applicable whenever the IPC sections stated under the schedule are attracted. In the present case the sections invoked are 87, 118(1), 115(2), 351(3) of BNS which are equal to 366, 323, 324 and 506 IPC. The said sections of 366 and 506 of IPC are not stated in the said schedule. However, sections 323 and 324 are in the said schedule, but it is seen that the said allegation under section 323 and 324 are against the 1st accused and not against the 2nd petitioner (3rd accused) and 1st petitioner (2nd accused). When the sections stated in the schedule are not attracted, then the section 3(2)(va), may not be attracted. Therefore, this Court is



CrI.OP(MD)No.16236 of 2025

of the considered opinion that the prima facie case under section 3(2)(va) was not attracted, consequently the petitioner is entitled to anticipatory bail.

10. For the reasons stated supra and considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

11. Accordingly, the 2nd petitioner is ordered to be released on bail in the event of arrest or on her appearance, on condition that the 2nd petitioner shall execute a bond for a sum of Rs.10,000/-(Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the Special Court for Exclusive Trial of Cases under POCSO Act, Theni, within a period of fifteen days from the date of receipt of a copy of this order and on further conditions that:

[a]the 2nd petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.

[b]the 2nd petitioner shall report before the respondent police as and when required for interrogation.

[c]the 2nd petitioner shall not tamper with the evidence or witness either during



CrI.OP(MD)No.16236 of 2025

investigation or trial.

WEB COPY

[d]the 2nd petitioner shall not abscond either during investigation or trial.

[e]On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner is released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

[f]If the accused thereafter absconds, a fresh FIR can be registered under Section 269 of BNS.

06-11-2025

Tmg

TO

1. The Special Court for Exclusive Trial of Cases
under POCSO Act, Theni,

2.The Inspector of Police,
Kurangani Police Station,
Theni District.

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