



Crl.O.P.(MD)No.16680 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved On :23.10.2025

Pronounced On :11.11.2025

PRESENT

The HONOURABLE MRS.JUSTICE S.SRIMATHY

CRL OP(MD)No.16680 of 2025

D.Kandhasamy

... Petitioner

Vs.

The State of Tamil Nadu,
Represented by the Inspector of Police,
Thiruverumbur Police Station,
Tiruchirapalli District,
Tamil Nadu.
(Crime No.884 of 2025)

... Respondent

For Petitioner : Mr.S.R.Rajagopal
Senior Counsel
for Mr.B.Natarajan
For R1 : Mr.S.S.Manoj
Government Advocate (Crl.Side)
For De facto
Complainant : Mr.R.Baskaran
Senior Counsel
for Mr.K.R.Kishore Ram

PETITION FOR ANTICIPATORY BAIL Under Sec.482 of BNSS

PRAYER :-



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For Anticipatory Bail in Cr.No.884 of 2025 on the file of the respondent police.

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ORDER: The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 106(1) of BNS, 2023, in Crime No. 884 of 2025, on the file of the respondent police, seeks anticipatory bail.

2. The briefs facts of the case are that the petitioner is employed by M/s.Subaya Constructions Company Limited hereinafter referred to as 'the company'. The said company participated in the Tender dated 21.02.2018, floated by Tiruchirappalli City Corporation, for providing sewerage collecting system in the extended areas of Corporation for UGSS in Trichy Corporation under Package - 1 - (Kattur (South and North), Win Nagar, Raja Rajeswari Nagar, Kalkandhar Kottai, Balaji Nagar and Ukkadai (North and South)). The company being the L1, was granted the Letter of Acceptance dated 19.12.2018. Subsequently the TCC and the said company entered into an Agreement dated 09.01.2019, for implementation and commissioning of the said Tender. The petitioner herein was appointed by the said company as the Project In-charge in the said project. The project has 3 phases, (i) Construction of sewerage system, (ii) Commissioning of sewerage system, (iii) Trial run phase (6 months), (iv)



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One year defect liability period. After completion of construction of sewerage system, the Tiruchirapalli City Corporation (TCC) started laying down the road and had also put up construction of new drains. While doing so, the TCC extensively damaged the man-hole and dumped the debris inside the newly constructed man-hole. When the company insisted for cleaning up of the manhole / newly constructed sewerage system of the debris, the ensuing discussions between the TCC and the said company, which is an additional work, for cleaning the debris the discussion proceeded to fixation of cost. Since the cost quoted by the company and the TCC had variation as the lower cost offered by TCC was not acceptable to the company therefore as directed by TCC the company handed over the possession and detailed drawing to TCC for carrying out the work of man whole / new sewerage system either by itself or through contractors of its choice. The following communications between the TCC and the Company shows the fact transpired between them and the evidence of handing-over of possession: (i) The rate-by-rate analysis offered by the company for cleaning of man-holes of various depths vide communication dated 21.03.2024 and reminder letter dated 26.03.2024 (ii) TCC's reply dated 22.11.2024 by way of an email offering much lower rate (iii) Company's letter dated 29.11.2024 with photographs picture of the man-hole to show the extensivity of damage caused by TCC and requested the TCC to approve the



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rate offered by the said company (iv) Review meeting held on 19.02.2025, wherein, the Commissioner of TCC instructed the said company to hand over the said project and that TCC will take over the cleaning and other allied works. The same was intimated to TCC vide dated 20.02.2025. Thereafter, the TCC initiated the cleaning process for which the TCC had engaged daily wage labourers. However, it is not known whether the TCC had engaged daily wage labourers through any agency or performed it directly. The petitioner's company do not know whether TCC has engaged four teams 1.Mr.Suryamoorthi, 2.Mr.Sekar, 3.Mr.Ashokan and 4.Mr.Viswanathan or through daily wages labourers or TCC themselves have done this cleaning process works, the Jet Rodding machine operated at the site during the incident is owned by the TCC and operated by its staff and it is also not known whether any one of the team out of four teams was engaged to do this work at this site during the accident. On 22.09.2025 it seems that the TCC had engaged one Mr.Ravi and one Mr.Prabhu, for undertaking the cleaning of man-hole. Unfortunately, the said Mr.Ravi and Mr.Prabhu while cleaning the said man-hole died due to un-known reason. Mr.Ravi and Mr.Prabhu were often engaged by the company on day-to-day basis for the performance of manual work. Mr.Ravi and Prabhu also worked with the company as daily wage labourers. The said Mr.Ravi had left our company four months back thereafter it was not



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known about his activities and where he is working. Whereas, Mr.Prabhu was engaged on day-to-day basis to work in the plumbing section. When aforementioned two persons namely Mr.Ravi and Mr.Prabhu died during the employment of TCC in order to escape from liability the Junior Engineer of TCC one Mr.Prasad had preferred a false complaint on the petitioner herein and one Mr.Ilavarasan. Mr.Ilavarasan has already been arrested. Since the petitioner also apprehends arrest in Crime No. 884/2025 the present anticipatory bail application is preferred. The petitioner submits that since, the said company completely handed over the cleaning of the man-hole processes to the TCC the company had no connection in the work that was undertaken by TCC which resulted in the death of Mr.Ravi and Mr.Prabhu. The petitioner submits that the daily wage labourers were engaged by TCC and when the accident occurred the daily wage labourers were in the course of employment by TCC, that is the reason the TCC had paid a sum of Rs.30,00,000/- as compensation to each of the deceased daily wage labourers. However, to escape the liability the Junior Engineer of TCC has preferred a complaint against the Petitioner herein and one Mr.Ilavarasan who are the employees of the said company. Hence, the apprehension of arrest.

3. Initially the FIR was registered under section 106(1) BNS and section



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9 of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013. Thereafter, alteration report was filed wherein the section 3(1)(j) of SC/ST Act, 1989 was included.

4. The learned Counsel appearing for the petitioner submitted that the petitioner has been falsely implicated in this case and he has not committed any offence and prayed to grant anticipatory bail. The learned Government Advocate (Crl. side) appearing for the respondent submitted that the offences committed by the petitioner are serious in nature. The Learned Senior Counsel appearing for the Trichy Municipal Corporation submitted that the petitioner is liable for the offence and the contract was not handed over to the Corporation as alleged by the petitioner. The respondents further submitted that the petitioner is not entitled to anticipatory bail, since the sections have been altered under SC/ST Act, wherein the Act bar from granting anticipatory bail, hence the petition itself cannot be entertained and numbered. But the Learned Counsel appearing for the petitioner submitted that there is no bar in granting anticipatory bail. In view of the rival submissions, the petitioner and the respondents were directed to submit on the issue of maintainability also.

5. The Learned Counsel appearing for the petitioner submitted that prima



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facie if the FIR does not disclose the necessary ingredients to constitute the offence under SC/ST Act, 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” and at anticipatory bail stage the Court cannot elaborately go into the ingredients of the offence.

6. In support of the arguments the Learned Senior Counsel appearing for the petitioner had relied on Shajan Skaria Vs. State of Kerala and another reported in 2024 SCC OnLine SC 2249. In the said case 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 stipulated under



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

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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 (Crl. Side) regarding maintainability is rejected. Consequently, this Court is of the considered opinion that the petition is maintainable.

7. In the present case it ought to be considered whether there is any prima facie case. The Learned Government Advocate relied on *Kiran Vs Rajkumar Jivraj Jain* and another reported in 2025 Live Law (SC) 869 wherein it is held that on reading the FIR if on first blush or by first impression it can be concluded that the offence is committed then bail cannot be granted. The Learned Counsel appearing for the petitioner submitted that the judgment rendered in *Shajan Skaria* stated supra had dealt with the phrase prima facie elaborately, wherein it is 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



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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 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 is invoked against the petitioner is sections 3(1)(j) of the SC/ST Act and the relevant provision is extracted hereunder:

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

(a) ...

(j) makes a member of a Scheduled Caste or a Scheduled Tribe to do manual scavenging or employs or permits the employment of such member for such purpose;

(t) ...

As far as the allegations in FIR is concerned that the defacto complainant came to know that the M/s.Subaya Constructions had engaged the deceased to clear the debris of the manhole. But the contention of the petitioner is that the contract was already handed over to the Corporation. When it is not clear who



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had engaged the deceased, this Court is of the considered view that at this stage the petitioner cannot be fasten with the liability. Consequently, the petitioner is entitled to anticipatory bail.

9. 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.

10. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, on condition that the 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 Judicial Magistrate Court No.6, Trichy, within a period of fifteen days from the date of receipt of a copy of this order and on further conditions that:

[a]the 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 petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter, as and when required for



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interrogation.

[c]the petitioner shall not tamper with the evidence or witness either during investigation or trial.

[d]the 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.

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1. Judicial Magistrate Court No.6,
Trichy.
- 2.The Inspector of Police,
Thiruverumbur Police Station,
Tiruchirapalli District.
- 3.The Additional Public Prosecutor,
Madurai Bench Of Madras High Court,
Madurai.



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S.SRIMATHY,J

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ORDER
IN
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