



CRL OP(MD). No.21324 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date: 25/11/2025

PRESENT

The HONOURABLE MRS. JUSTICE S.SRIMATHY

CRL OP(MD). No.21324 of 2025

Bharathi Kannan

... Petitioner

Vs

The State of Tamil Nadu,
Rep By, The Inspector of Police,
Madurai City Police Station,
Cyber Crime Division III, Madurai City
(Crime No.80 of 2025).

... Respondent

For Petitioner : Mr.V.Arun Jayatram,
For Mr.M.Karthikeya Venkitachalapathy

For Respondent: Mr.S.S.Manoj,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.482 of BNSS

PRAYER :-

For Anticipatory Bail in Cr.No.80 of 2025 on the file of the respondent police.



CRL OP(MD). No.21324 of 2025

ORDER : The Court made the following order :-

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The petitioner, apprehends arrest for the offences punishable under Sections 296(b), 19(1)(a), 352, 353(1)(b) and 353(2) of BNS in Crime No.80 of 2025 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner had posted a video in his social media account maintained in "Instagram" and in which the petitioner allegedly used un-parliamentary words against two Members of Parliament and criticized their derogatory comments made in respect of an attack of terrorist at Pehalgam in Kashmir state and the consequent operation carried out by the Indian Army under the name of 'operation sindoor'. Further the petitioner uploaded a comment that after the operation sindoor, the Indian Government sent special envoys consisting of various opposition political party leaders to various countries and gave a suitable explanation about the stand taken by the Indian Government against the terrorist attack at Pehalgam. By that social media posting, the petitioner is allegedly conducting public mischief and is creating feelings of enmity between different communities.



3. The contention of the petitioner is that the petitioner has nothing to do with the allegations levelled against him by the defacto complainant in his complaint. The petitioner uploaded a video in his Instagram platform social media account and in which the statement made by Members of Parliament, who were elected from the state of Tamil Nadu, who made derogatory comments against Indian Army and the Government of India to carry out 'Operation Sindoor' against the terrorist camps functioning near the border of India at Jammu and Kashmir. The petitioner never made any comments against any community or religion or racial, language or regional groups. Hence the of FIR is misuse of official capacity held by the de facto complainant and the same is intentional and politically motivated. Further no individual has made any complaint against the petitioner.

4. The petitioner further states that the social media posting was circulated at the time of the Pehelgam terrorist attack and the consequent operation sindoor in the month of July 2025. After that the social media posting was shared and circulated widely by many other persons, but no untoward incidents happened as alleged by the complainant. Later the defacto complainant based on the social media posting uploaded by one 'Saffron -Anil' in X platform, for which FIR was registered on 01.08.2025 and based on which the Respondent threatened to arrest



the petitioner. The words used in the petitioner's posting are clear and indicate a genuine concern, merely suggesting that the derogatory comments of Members of Parliament need to be reviewed. None of the words in the tweet impute any wrongdoing against any community or group or religion or incite conflict between any groups. Petitioner's intention was purely to bring attention regarding 'Operation Sindoor' and not to incite any unrest or disrupt public order. The petitioner states that he is innocent and he has not committed any offence as alleged by the prosecution.

5. The learned counsel for the petitioner submitted that based on the petitioner has voiced his concern, since the sitting Member of Parliament uttered against the National interest. He further submitted that the petitioner is ready and willing to abide by any conditions which may be imposed by this Court. Hence, he seeks bail to the petitioner.

6. The learned Additional Public Prosecutor submitted that there is no previous case pending against the petitioner and the investigation is still pending. Hence, he opposed for grant of anticipatory bail to the petitioner.



7. Two Members of Parliament from Tamil Nadu had spoken ill about the Indian Army. One of the MP had stated that no Army soldiers were killed in Pahalgam attack, hence no Army was available and Army had failed in giving protection to tourists. Likewise the MP had spoken ill about the Prime Minister of India, wherein he has stated that the Operation Sindoor war was ended due to the intervention of American President, during the period of Rajaraja Cholan he would have started the war and he would have ended the war and the war would not have been ended due to the intervention of the King of neighboring country, if some such claim is made by the King of the neighboring country, Rajaraja Cholan would have beheaded the said King. The other MP also has spoken on the similar lines. Annoyed by such statements the petitioner has posted a comment in the social media addressing the Member of Parliament as dogs favoring Pakistan and has slammed them for denigrating India.

8. The respondent had filed FIR under section 296 (b) of BNS (294(b) of IPC) alleging that the petitioner had uttered obscene word in public thereby annoyed others, section 352 of BNS (153-A of IPC) alleging the petitioner is promoting enmity between different groups on the ground of religion, race place of birth, residence, language, regional, caste or communities etc., which act is



prejudicial to maintenance of harmony, section 353(1)(b) of BNS (504 of IPC) alleging the petitioner intentionally insulting with intent to provoke breach of peace and section 353(2) of BNS (505 of IPC) alleging that the statements conducing to public mischief. It is seen that the petitioner had addressed the Member of Parliament as dogs favoring Pakistan and has slammed them for denigrating India.

9. The Courts have considered such issues in several cases and repeatedly had held that to express any opinion in good faith against the conduct of a public servant regarding his public functioning is not a crime. The Member of Parliament are public servants and their statements about the Army and Prime Minister were made in their capacity as MPs. The petitioner post was a critique of this specific public conduct. The petitioner did not attack the MP's private lives but attacked their discharge of public duties. The integrity of the Indian Army is a matter of public concern, when the MPs had commented on the Indian Army, the petitioner's response was strictly regarding this public question, so he is entitled to have an opinion on their stance regarding the Indian Army. Further, slandering the Prime Minister during the period of Operation Sindoor by the MP's is totally unwarranted at that point of time, hence annoyed by such post the petitioner has



posted the comment. Therefore, the post cannot be considered as attracting the sections of 296(b), 19(1)(a), 352, 353(1)(b), 353(2) of BNS.

10. As a citizen of India, the petitioner has a legitimate interest in the honor of the Armed Forces and the post was not malicious or not personal vendetta. It was a reaction to protect the Army's reputation from the MPs' derogatory remarks. The MPs' statements against the Army were matters of public interest and the citizen had a right to criticize them under Article 19(1)(a). The petitioner as a citizen has a right to fair comment. Expressing dissent or outrage against anti-national statements cannot be consider as having criminal intent or public mischief.

11. Article 105(2) protects MPs from court proceedings for anything said in Parliament. While the MPs cannot be sued for their speech inside the House, likewise citizens cannot be prosecuted for criticizing that speech outside the House. The immunity covers the MP's liability, it does not silence the public's opinion on their conduct.

12. In *Shajan Skaria v. State of Kerala*, 2024 SCC OnLine SC 2249 the



Hon'ble Supreme Court had held as under;

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“15. Under the 1898 Code, the concept of anticipatory or pre-arrest bail was absent and the need for introduction of a new provision in the Cr.P.C. empowering the High Court and Court of Session to grant anticipatory bail was pointed out by the 41st Law Commission of India in its report dated September 24, 1969. The report pointed out the necessity of introducing a provision in the CrPC enabling the High Court and the Court of Session to grant anticipatory bail. It observed in para 39.9 of its report (Volume I): Anticipatory bail

“39.9 The suggestion for directing the release of a person on bail prior to his arrest (commonly known as “anticipatory bail”) was carefully considered by us. Though there is a conflict of judicial opinion about the power of a Court to grant anticipatory bail, the majority view is that there is no such power under the existing provisions of the Code. The necessity for granting anticipatory bail arises mainly because sometimes influential persons try to implicate their rivals in false causes for the purpose of disgracing them or for other purposes by getting detained in jail for some days. In recent times, the accentuation of political rivalry, this tendency is showing signs of steady increase. Apart from false cases, where there are reasonable grounds for holding that a person accused of an offence is not likely to abscond, or otherwise misuse his liberty while on bail, there seems no justification to require him first to submit to custody, remain in prison for some days and then apply for bail””

13. In the case of **Arnab Manoranjan Goswami v. State of**



Maharashtra, reported in (2021) 2 SCC 427, the Court had held as under:

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“67. Human liberty is a precious constitutional value, which is undoubtedly subject to regulation by validly enacted legislation. As such, the citizen is subject to the edicts of criminal law and procedure. Section 482 recognises the inherent power of the High Court to make such orders as are necessary to give effect to the provisions of CrPC “or prevent abuse of the process of any court or otherwise to secure the ends of justice”. Decisions of this Court require the High Courts, in exercising the jurisdiction entrusted to them under Section 482, to act with circumspection. In emphasizing that the High Court must exercise this power with a sense of restraint, the decisions of this Court are founded on the basic principle that the due enforcement of criminal law should not be obstructed by the accused taking recourse to artifices and strategies. The public interest in ensuring the due investigation of crime is protected by ensuring that the inherent power of the High Court is exercised with caution. That indeed is one and a significant end of the spectrum. The other end of the spectrum is equally important, the recognition by Section 482 of the power inhering in the High Court to prevent the abuse of process or to secure the ends of justice is a valuable safeguard for protecting liberty. The Code of Criminal Procedure, 1898 was enacted by a legislature which was not subject to constitutional rights and limitations; yet it recognised the inherent power in Section 561-A. Post-Independence, the recognition by Parliament of the inherent power of the High Court must be construed as an aid to preserve the constitutional value of liberty. The writ of liberty runs through the fabric of the Constitution. The need to ensure the fair investigation of crime is undoubtedly important in itself, because it protects at one level the rights of the victim and, at a more



fundamental level, the societal interest in ensuring that crime is investigated and dealt with in accordance with law. On the other hand, the misuse of the criminal law is a matter of which the High Court and the lower courts in this country must be alive. In the present case, the High Court could not but have been cognizant of the specific ground which was raised before it by the appellant that he was being made a target as a part of a series of occurrences which have been taking place since April 2020. The specific case of the appellant is that he has been targeted because his opinions on his television channel are unpalatable to authority. Whether the appellant has established a case for quashing the FIR is something on which the High Court will take a final view when the proceedings are listed before it but we are clearly of the view that in failing to make even a prima facie evaluation of the FIR, the High Court abdicated its constitutional duty and function as a protector of liberty. Courts must be alive to the need to safeguard the public interest in ensuring that the due enforcement of criminal law is not obstructed. The fair investigation of crime is an aid to it. Equally it is the duty of courts across the spectrum the district judiciary, the High Courts and the Supreme Court, to ensure that the criminal law does not become a weapon for the selective harassment of citizens. Courts should be alive to both ends of the spectrum, the need to ensure the proper enforcement of criminal law on the one hand and the need, on the other, of ensuring that the law does not become a ruse for targeted harassment. Liberty across human eras is as tenuous as tenuous can be. Liberty survives by the vigilance of her citizens, on the cacophony of the media and in the dusty corridors of courts alive to the rule of (and not by) law. Yet, much too often, liberty is a casualty when one of these components is found wanting.”



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14. The Courts have granted bail and held that criminal law must not be used to harass citizens for expressing views that are unpalatable to the authority. Therefore, this Court is of the considered opinion that the criminal law cannot become a weapon for the selective harassment of citizens merely because the accused's opinions are unpalatable to the MPs. In the present case, the accused is being targeted solely for expressing views regarding the conduct of MPs, which is a protected exercise of free speech.

15. Further it is seen that the individual has not preferred any complaint. Based on the complaint of Sub Inspector of Police Cyber Crime namely C.Raja the present complaint has been preferred. It is not known how the cyber crime is affected by such comments posted by the petitioner. This is a classic case of intolerance and Fascism attitude of the State.

16. In ***Kaushal Kishor v. State of U.P.***, reported in ***(2023) 4 SCC 1*** it is held as under:

“249. Public functionaries and other persons of influence and celebrities, having regard to their reach, real or apparent authority and the impact they wield on the public or on a certain section thereof, owe a duty to the



citizenry at large to be more responsible and restrained in their speech.

They are required to understand and measure their words, having regard to the likely consequences thereof on public sentiment and behaviour, and also be aware of the example they are setting for fellow citizens to follow.

In the present case the MP's have stated that the operation sindoor was ended by President of America, but the whole world knows the truth that the said statement is not true. Infact the President of America claimed he had stopped the war / fight is various parts of the world and invariably every country involved in the said war / fight had denied it. And the President of America was trolled for such statement and in the trolling the President of America was called to end the fight between husband and wife. Therefore, the statement of the MPs is irresponsible. As held in Kaushal Kishor's case the present MPs owe a duty to the citizen at large and they should act more responsibly with restrained speech and should be aware of likely consequences thereof on public sentiment and behaviour and also be aware of the example they are setting for fellow citizens to follow.

17. Therefore, taking into consideration of the facts and circumstances of the case and for the reasons stated supra, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions.



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18. Accordingly, the petitioner is ordered to be released on bail on executing 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 -I, Madurai, within a period of fifteen days from the date on which the order copy made ready and on further conditions that:-

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar 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 one week, thereafter as and when required may appear before the respondent police for investigation.

[c] the petitioner shall not abscond either during investigation or trial.

[d] the petitioner shall not tamper with evidence or witness 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



CRL OP(MD). No.21324 of 2025

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the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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 BNS.

(S S Y J)
25.11.2025

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TO

1. Judicial Magistrate Court -I,
Madurai.
2. The Inspector of Police,
Madurai City Police Station,
Cyber Crime Division III, Madurai City.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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CRL OP(MD). No.21324 of 2025

S.SRIMATHY,J

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ORDER
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