



Crl.OP(MD)No.22644 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2025

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.22644 of 2025

Minor. Gurusamy,
Rep. by his Mother,
Rameshwari

... Petitioners

Vs.

The State of Tamilnadu,
Rep. by the Inspector of Police,
Kallikudi Police station,
Madurai District.
(Cr.No.225 of 2025)

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to direct the learned Juvenile Justice Board, Madurai, to consider the bail application on his surrender on the same day, if any petition filed by the petitioner in Crime No.225 / 2025 on the file of the respondent.

For Petitioner : Mr.S.Sivaprakash

For Respondent : Mr.M.Sakthi Kumar,
Government Advocate (Crl. side)



Crl.OP(MD)No.22644 of 2025

WEB COPY

ORDER

Preface:

This Criminal Original Petition is filed invoking Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 read with Section 482 Cr.P.C., 1973, seeking an appropriate direction in relation to the petitioner, who is stated to be a child in conflict with law, in connection with Crime No.225 of 2025 dated 16.11.2025, registered for offences under Sections 191(2), 296(b), 115(2), 132, 351(2) of BNS and Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992.

2. The petitioner apprehends that upon being produced/surrendering before the Juvenile Justice Board, the Board may follow a practice of calling for a report from the Probation Officer and, till such report is received, send the child to an Observation Home, thereby affecting the child's future, though there is no necessity in law to adopt such a course.



Crl.OP(MD)No.22644 of 2025

Case of the prosecution:

3. The prosecution case, as reflected in the FIR, is that on 16.11.2025 at about 7.00 p.m., after enquiry relating to a missing complaint of a major girl, certain persons allegedly assembled at the police station, caused disturbance, threatened/assaulted police personnel and damaged lights at the entrance, leading to registration of the present crime.

Case of the petitioner:

4. The petitioner is arrayed as A5 and claims to be a minor, studying 10th Standard, with date of birth 02.12.2008, and contends that there is no specific overt act as against him and that he has been falsely implicated. The adult accused are stated to have been granted bail.

Submissions:

5. The learned Government Advocate (Crl. side) submitted that in view of the Division Bench judgment in ***K. Vignesh v. State***¹ approving Ajith Kumar, an application seeking anticipatory bail under Section 438 Cr.P.C., 1973, at the instance of a juvenile is not

¹ 2017 SCC OnLine Mad 28442



Crl.OP(MD)No.22644 of 2025

WEB COPY

maintainable, and further, the Division Bench has held that a direction to the Juvenile Justice Board to release the child cannot be issued under Section 482 Cr.P.C., 1973. This direction petition is an indirect way of seeking Anticipatory bail. Hence, it was contended that the petition is liable to be dismissed.

6. The learned counsel for the petitioner submitted that the petitioner does not seek anticipatory bail in substance, and relied upon the order of this Court in **Minor S. Manojkumar v. State²**, wherein it has been clarified that merely for calling for a probation report or for passing orders in the bail petition, sending the child to the Observation Home is not contemplated, and that, as an interim measure, the Board may keep the child in the custody of parents/guardian.

7. Heard the learned counsels on either side and carefully perused the materials available on record.

² Crl.O.P.(MD) No.22689 of 2023 dated 15.12.2023



Point for consideration:

8. The point for consideration is whether, while being bound by the Division Bench ruling in **K. Vignesh v. State**³, this Court can mould relief to ensure that the child in conflict with law is not routinely sent to an Observation Home pending probation report/bail consideration, in the light of **Minor S. Manojkumar v. State**⁴?

Analysis:

9. The manner in which a juvenile in conflict with law when apprehended should be dealt with is clearly mandated in the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter to be mentioned as “the Act”) .Section 10(2) of the Act reads as under:

“10. Apprehension of child alleged to be in conflict with law.

(1) ...

(2) The State Government shall make rules consistent with this Act,— (i) to provide for persons through whom (including registered voluntary or non-governmental

3 2017 SCC OnLine Mad 28442

4 CrI.O.P.(MD) No.22689 of 2023 dated 15.12.2023



Crl.OP(MD)No.22644 of 2025

organisations) any child alleged to be in conflict with law may be produced before the Board;

(ii) to provide for the manner in which the child alleged to be in conflict with law may be sent to an observation home or place of safety, as the case may be.”

10. Section 12 of the Act, deals with bail to the child in conflict with law and the same is extracted as follows:

“12. Bail to a person who is apparently a child alleged to be in conflict with law.—(1) When any person, who is apparently a child and is alleged to have committed a available or non-bailable offence, is apprehended or detained by the police or appears or brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a probation officer or under the care of any fit person:

Provided that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the person’s release would defeat the



Crl.OP(MD)No.22644 of 2025

WEB COPY

ends of justice, and the Board shall record the reasons for denying the bail and circumstances that led to such a decision.

(2) When such person having been apprehended is not released on bail under sub-section (1) by the officer-in-charge of the police station, such officer shall cause the person to be kept only in an observation home [or a place of safety, as the case may be] in such manner as may be prescribed until the person can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board, it shall make an order sending him to an observation home or a place of safety, as the case may be, for such period during the pendency of the inquiry regarding the person, as may be specified in the order.

(4) When a child in conflict with law is unable to fulfil the conditions of bail order within seven days of the bail order, such child shall be produced before the Board for modification of the conditions of bail.”

11. Thus when Section 10(2) is read in conjunction with Section 12 of the Act, it could be precisely derived that, a juvenile in conflict with law when apprehended and produced before the



Juvenile Justice Board, the juvenile shall be caused not only to an observation home, but also a place of safety. Needless to state parent's home will fall under place of safety ,unless extra ordinary circumstances of threat prevails against the juvenile.

12. Thus, the legal position declared by the Division Bench in **K. Vignesh v. State**⁵ is binding. The Division Bench has held that a child in conflict with law cannot be arrested under the scheme of the Juvenile Justice Act, 2015, but can only be apprehended and produced before the Board, and therefore, there can be no apprehension of arrest, rendering a petition under Section 438 Cr.P.C., 1973, not maintainable. The Division Bench has also clarified that a direction to the Juvenile Justice Board to “release” the child cannot be issued in exercise of inherent powers.

13. At the same time, **Minor S. Manojkumar v. State**⁶ explains the correct procedural approach before the Juvenile Justice Board. A combined reading of the statutory provisions and Model Rules does not contemplate sending the child to the Observation

⁵ 2017 SCC OnLine Mad 28442

⁶ Crl.O.P.(MD) No.22689 of 2023 dated 15.12.2023



Crl.OP(MD)No.22644 of 2025

Home merely for the purpose of passing orders in a bail application or pending receipt of a Probation Officer's report. The Board may call for a report, but detention in Observation Home for that purpose is neither desirable nor permissible, and as an interim arrangement the Board may keep the child in the care and custody of the parents/guardian, subject to appropriate safeguards.

14. Therefore, without trenching upon the binding declaration in ***K. Vignesh v. State***⁷, this petition can be disposed of by issuing a limited procedural direction so that the statutory safeguards for children are not defeated by routine interim detention.

15. Accordingly, this Criminal Original Petition is disposed of with the following directions:

(i) The petitioner shall appear / be produced before the Juvenile Justice Board, Madurai, in connection with Crime No.225 of 2025, within one week from the date of receipt of a copy of this order.

(ii) The Juvenile Justice Board shall deal with the petitioner strictly in accordance with the Juvenile Justice (Care and Protection

⁷ 2017 SCC OnLine Mad 28442



Crl.OP(MD)No.22644 of 2025

of Children) Act, 2015 and the Model Rules. If a report from the Probation Officer is required, the same may be called for, however, pending such report and pending consideration of the bail petition, the Board shall bear in mind the principle stated in **Minor S. Manojkumar v. State**⁸ that the child need not be sent to an Observation Home as a matter of course, and that the Board may, as an interim measure, place the child in the care and custody of the parents/guardian, subject to such conditions as the Board deems fit.

(iii) It is clarified that this Court is not granting anticipatory bail and this order shall not be construed as a direction to “release” the child in the sense disapproved by the Division Bench in **K. Vignesh v. State**⁹. This order is confined to ensuring that the procedure adopted by the Board conforms to the statutory safeguards and does not result in routine interim detention.

15.12.2025

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

⁸ CrI.O.P.(MD) No.22689 of 2023 dated 15.12.2023

⁹ 2017 SCC OnLine Mad 28442



Crl.OP(MD)No.22644 of 2025

To

WEB COPY

- 1.The Juvenile Justice Board, Madurai.
- 2.The Inspector of Police,
Kallikudi Police station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.OP(MD)No.22644 of 2025

L.VICTORIA GOWRI, J.

Sml

CRL OP(MD)No.22644 of 2025

15.12.2025