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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2026

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THE HONOURABLE MR JUSTICE **K.RAJASEKAR**

Crl.O.P.No.27679 of 2025

Venkatesan

... Petitioner

Vs.

1. The Inspector of Police
All Women Police Station
Thiruvannamalai
Thiruvannamalai District.
(Crime No.26 of 2025)

2. Padavettal

... Respondents

(R2 is suomotu impleaded as per the order
of this Court dated 10.10.2025 in
Crl.O.P.No.27679 of 2025)

PRAYER : Criminal Original Petition filed under Section 483(1)(b) of Bharatiya Nagarik Suraksha Sanhita, to modify the certain portion of the condition No.1 imposed by the learned Principal District and Session Judge at Thiruvannamalai that "The petitioner/Accused is hereby directed to pay a sum of Rs.7,500/- (Rupees Seven Thousand and five hundred only) every month within 10th day of English Calendar Month without fail (Rupees Seven Thousand and five hundred only) to the defacto complainant. (In the event of failure on the part of the petitioner in complying with the above said conditional order, the respondent is entitled to file a cancellation of bail" the petitioner is ordered to be released on anticipatory bail on his executing an

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own bond for a sum of Rs.10,000/- (Rupees Ten Thousands only) with two sureties each for a like sum to the satisfaction of the Jurisdictional Magistrate" passed on 18.06.2025 in CrI.M.P.No.1602 of 2025 in Crime No.26 of 2025 on the file of the respondent.

For Petitioner : Mr.K.Thenrajan
for Mr.V.Thiyagarajan
For Respondent : Ms.J.R.Archana
Government Advocate (Crl. Side)
For R1.
Mr.B.Malmaruga,
For R2.

ORDER

This Criminal Original Petition has been filed seeking modification of the condition imposed by the learned Principal District and Sessions Judge, Tiruvannamalai, in CrI.M.P.No.1602 of 2025, wherein while granting anticipatory bail to the petitioner, the learned Principal District and Sessions Judge directed the petitioner to pay a sum of Rs.7,500/- every month on or before 10th day of every English calendar month to the defacto complainant as a condition for anticipatory bail.

2. The learned counsel appearing for the petitioner would submit that the issue relating to entitlement and quantum of maintenance requires adjudication before the competent forum and such a condition cannot be

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imposed while exercising jurisdiction under Section 438 Cr.P.C.

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3. *Per contra*, the learned Government Advocate (Crl.side) would submit that the petitioner had voluntarily expressed his willingness to pay certain amount before the Court below and hence, the condition was imposed.

4. This Court has considered the rival submissions and perused the materials available on record.

5. It is well settled that while granting anticipatory bail, conditions can be imposed to ensure availability of accused for trial. However, directing payment of maintenance, which requires adjudication under the relevant statutory provisions, is not a proper condition to be imposed in a petition under Section 438 Cr.P.C as laid down in the decision of the Hon'ble Apex Court in Srikant Kumar @ Shrikant Kumar v. The State of Bihar and Anr. [Civil Appeal Nos... 2025 dated 06.01.2025]. The relevant paras are extracted hereunder:

“9. When application for bail is filed, the Court is required to impose such bail conditions which would ensure that the appellant does not flee from justice and is available



to face Trial. Imposing conditions which are irrelevant for exercise of power under Section 438 of the Cr.P.C. would not therefore be warranted.

10. On this, Ms.Fauzia Shakil, learned counsel has relied upon Munish Bhasin and Others Vs. State (Government of NCT of Delhi) and Another, reported in (2009) 4 SCC 45.

11. Having considering the above, we are of the view that the bail condition imposed by the High Court directing the appellant to pay Rupees Four Thousand per month as maintenance to the informant (respondent no.2) was not merited. The same is accordingly set aside and quashed. However, appellant is bound to remain available and face the trial as required by law. The learned Trial Court should therefore impose appropriate bail condition(s) to facilitate the appellant to remain on bail, while availing bail under the impugned order dated 17.07.2023.”

6. In view of the above, the condition imposed by the learned Principal District and sessions Judge, Tiruvannamalai, directing the petitioner to pay Rs.7,500/- per month to the defacto complainant is set aside. The other conditions imposed in the order shall remain unaltered. It is made clear that the defacto complainant is at liberty to work out her remedy before the appropriate forum in the manner known to law.



7. Accordingly, this Criminal Original Petition is ordered.

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To

1. The Principal District and Sessions Judge, Tiruvannamalai.
2. The Inspector of Police
All Women Police Station
Thiruvannamalai
Thiruvannamalai District.
3. The Public Prosecutor,
High Court of Madras.



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K.RAJASEKAR, J.

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