



Crl.OP.(MD)No.20424 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on: 27.11.2025

Pronounced on: 02.01.2026

PRESENT

The HONOURABLE MRS.JUSTICE S.SRIMATHY

CRL OP(MD)No.20424 of 2025

Gopinath @ Gopi @ Kutlu

... Petitioner

Vs.

The State of Tamil Nadu,
Represented by,
The Inspector of Police,
Othakadai Police Station,
Madurai District.
(Crime No.90 of 2025)

...Respondent

For Petitioner : Mr. J. Mohamed Ibrahim

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

For Intervenor : Dr.R.Alagumani

PETITION FOR ANTICIPATORY BAIL Under Sec.482 of BNSS

PRAYER :-

For Anticipatory Bail in Cr.No.90 of 2025 on the file of the respondent police.



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ORDER: The Court made the following order:

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The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 324(4), 296(b), 115(2), 118(1), 351(3) of BNS and Sections 3(1)(r), 3(1)(s) of Scheduled Caste / Scheduled Tribe (Prevention of Atrocities) Amendment Act, 2015, in Crime No.90 of 2025, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on 31.03.2025 at about 11.30 PM, the defacto complainant heard strange noises coming from outside his house. When the defacto complainant stepped outside to investigate, the petitioner and 3 other accused persons damaged the complainant's vehicle. Upon questioning the accused, they threatened the complainant with criminal intimidation. Hence, a case has been registered as against the petitioner.

3. The contention of the petitioner is that there is no specific allegation as against the petitioner and as alleged by the prosecution. Further submitted that the petitioner himself belongs to SC/ST community and the respondent without conducting any preliminary enquiry has straight away registered the FIR. He the petitioner seeks this Court to grant anticipatory bail to the petitioner.



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4. The learned Government Advocate (Crl. side) appearing for the respondent submitted that the offences committed by the petitioner are serious in nature. Further submitted that the petitioner had committed offences under SC/ST Act, hence Anticipatory Bail cannot be granted. He also submitted that the present application is third application and the earlier two applications were dismissed. Hence the present petition is not maintainable.

5. It is seen that the petitioner had filed an Anticipatory Bail Petition in Crl.O.P.(MD)No.6688 of 2025 and the same was dismissed as withdrawn. Then the petitioner had filed a direction petition in Crl.O.P.(MD)No.8933 of 2025 and the same disposed of directing the petitioner to file bail application before the concerned PCR Court and directed the Court to consider on the same day.

6. While filing the present petition, the registry returned the petition stating that already petition was filed in Crl.O.P.(MD)No.8933 of 2025 for the same crime number and the same was ordered, hence the present petition was returned. The petitioner had re-presented and had submitted that the petitioner was not aware of the Supreme Court's judgment in the present issue, wherein it is held that Anticipatory Bail is not bar. Thereafter, the present petition was



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numbered subject to maintainability. In the above circumstances the present anticipatory bail is considered.

7. The allegation against the petitioner is that the petitioner and three others had damaged the complainant's vehicle with sticks and while questioning the same the accused had threatened with criminal intimidation. On the face of the allegation, it is seen that the said allegations are bald.

8. The Learned Counsel appearing for the petitioner further submitted that there is no bar in granting anticipatory bail for the offence under SC/ST Act and he has relied on the Judgment in ***Shajan Skaria vs State of Kerala and Another*** reported in ***(2024 SCC Online SC 2249)*** from which para 30 is extracted hereunder:

"30. Taking note of the aforesaid, this Court in Dr.Subhash Kashinath Mahajan v. State of Maharashtra reported in (2018) 6 SCC 454. While quashing the proceedings instituted against the appellant, therein under the provisions of the Act, 1989 thought fit to issue the following directions:

"79.1.. Proceedings in the present case are clear abuse of process of court and are quashed.

79.2. There is no absolute bar against grant of



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anticipatory bail in cases under the Atrocities Act if no prima facie case is made out or where on judicial scrutiny the complaint is found to be prima facie mala fide.

79.3. In view of acknowledged abuse of law of arrest in cases under the Atrocities Act, arrest of a public servant can only be after approval of the appointing authority and of a non-public servant after approval by the SSP which may be granted in appropriate cases if considered necessary for reasons recorded. Such reasons must be scrutinised by the Magistrate for permitting further detention.

79.4. To avoid false implication of an innocent, a preliminary enquiry may be conducted by the DSP concerned to find out whether the allegations make out a case under the Atrocities Act and that the allegations are not frivolous or motivated.

79.5. Any violation of Directions 79.3 and 79.4 will be actionable by way of disciplinary action as well as contempt.

79.6. The above directions are prospective."

9. The Learned Counsel appearing for the petitioner further submitted that 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 pre-arrest bail. But the Learned Counsel appearing for the respondents submitted that the prima facie case ought to be “in the first blush or in the first impression”. At anticipatory bail stage the Court cannot elaborately go into the ingredients of the offence.



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10. In the ***Shajan Skaria's 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 Section 41 of CrPC could be said to be satisfied."

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) is rejected. Consequently, this Court is of the considered opinion that the Courts have power to consider pre-arrest bail even if case is filed under SC/ST Act.



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11. 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 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.

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12. In the present case the sections that are invoked against the petitioner is sections 3(1)(r) and 3(1)(s) of the SC/ST Act. 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 that the petitioner and three others had damaged the complainant's vehicle with sticks and while questioning the same the accused had threatened with criminal intimidation. Damaging the complainant vehicle would not amount to humiliating the complainant. Further the time of the offence is around 11.30 pm, it can be stated that the people are asleep and public was not available. Further there is no abusive language used by the petitioner even as per the FIR. 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



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case under sections 3(1)(r), 3(1)(s) are not made out and ingredients of the provisions are not attracted, more so on first blush or by first impression the crime is not made out under SC/ST Act.

13. Further the specific contention of the petitioner is that he himself belongs to SC/ST community. In such circumstances, the SC/ST Act may not be applicable.

14. 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.

15. 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 III Additional District and Sessions Court (PCR Court), Madurai, within a period of fifteen days from the date on which the order copy made ready and on further conditions that:

[a]the petitioner and the sureties shall affix their photographs and left



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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 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.The Inspector of Police,
Othakadai Police Station,
Madurai District.
2. III Additional District and Sessions Court (PCR Court),
Madurai,
- 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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