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CRL OP(MD). No.19802 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 18/02/2026

PRESENT

The HONOURABLE MRS. JUSTICE S.SRIMATHY

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G.Krishna Raj .. Petitioner/Accused

Vs

1. The Inspector of Police,
All Women Police Station, Ambasamudram,
Tirunelveli District.
(Crime No. 48 of 2025)

(Amended as Per Order of This Court Dated 19.01.2026
in Crl.M.P(MD) 910/2025)

2. Jeya .. Respondents/Complainants

(R2 is Suo Motu Impleaded as Per Order of This Court
Dated 19.01.2026 in Crl.OP(MD).19802/2025.)

For Petitioner : Anand R.,
Advocate.

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

For Intervenor/Defacto
Complainant : Ms.P.Chinna Ponnu

PRAYER :-

C-24AB For Anticipatory Bail in Crime No.48 of
2025 on the file of the respondent police



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ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 81 of BNS, 2023(u/s 493 of IPC), and Sections 7, 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST (Prevention of Atrocities) Act, 1989, in Crime No.48 of 2025 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant was working as a Nurse in a private hospital where the petitioner's mother was admitted as inpatient for taking treatment. At that time, the petitioner, being the son used to often go to the hospital. He had the chance of getting acquaintance of the defacto complainant. Their friendly relationship has been continued even after her mother has discharged from the hospital. While so, the defacto complainant has expressed her love feeling towards the petitioner and insisted him to marry her. It is her case that the petitioner also



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has got feeling of love. Inspite of it, the petitioner had refused to marry the defacto complainant since she has come from a different community. It is further alleged that the petitioner, even after having refused to part with his life with the defacto complainant. Inspite of promises, is said to have threatened her with dire consequences. Hence, the complaint.

3. The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has not committed any offences as alleged by the prosecution. He further submitted that the petitioner had only friendly relationship with the defacto complainant and he never fell in love with her. Prior to approaching the respondent police, the defacto complainant had openly challenged the petitioner by saying that by utilizing her community status, she would give a complaint against the petitioner and his family members. Hence the petitioner in advance had preferred a complaint before the All Women Police Station, Ambasamudram,



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Tirunelveli and submitted a complaint dated 13.08.2025 and preferred W.P.Crl.(MD)No.1984 of 2025, wherein this Court vide order dated 05.11.2025 had directed the concerned officer to dispose of the complaint as per law. Knowing the same the defacto had changed the jurisdiction and preferred a complaint to All Women Police Station Police Station at Alangulam. 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 anticipatory bail to the petitioner.

4. After hearing the rival submissions of the learned Counsels, this Court directed the parties to appear before this Court and conducted chamber hearing also. The contention of the petitioner is that initially there was liking between the petitioner and defacto complainant. And the parties decided to marry. In spite of different communities the petitioner's parents as well as the defacto complainant's parents had accepted the marriage proposal and engagement function was conducted, to



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this effect the engagement photo was also submitted.

The specific contention of the petitioner was that the engagement was agreed to be conducted on a specific condition that the marriage date would be fixed after the petitioner's sister, who was staying abroad, would indicate her suitability / available dates. In spite of the said condition, the defacto complainant side started pressuring to fix the marriage date alleging there was undue delay in fixing the marriage date. It is during this time the petitioner and defacto complainant families starting alleging each other which had escalated to calling off the marriage by the petitioner's side. Aggrieved over the same the defacto complainant had preferred the FIR alleging the petitioner had promise to marry and had physical relationship.

5. After hearing the rival submissions, this Court was of the considered opinion that the issue could be resolved if the parties attend psychological counselling and referred the case for counselling. The counselling report was submitted before this



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6. In the report it is stated that after engagement the petitioner had received repeated demands from the defacto complainant to be physically present which had disturbed the petitioner's work, specifically when the petitioner was in Chennai for job interview, based on the complaint of the defacto complainant, the police had insisted the petitioner to be in the police station forthwith and the petitioner had to leave the interview to attend police enquiry. Further repeated threats of self-harm upon refusal to adhere to demands, sending photos of pesticide bottle with suicide note threat implicating the petitioner and his parents, demanded that the petitioner shall not contact his parents post marriage. Hence the petitioner called off the marriage and he had expressed before the Counsellor that he is psychologically relieved from trauma after cessation and calling off the engagement.



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7. The report further states that the defacto complainant admitted that due to delay in marriage she was having anxiety and felt insecure. The counsellor had stated that the defacto complainant had interpreted the delay in fixing the marriage as betrayal, abandonment and had used suicidal threats and had admitted has acted under family guidance for preferring complaint. However, both the parties had admitted before the counsellor that there is no physical relationship.

8. Based on the above facts it is evident that there is no physical relationship and "caste" based allegations are not true. It is purely disagreement due to fixing the marriage date and consequent threats and suicidal threats, the marriage was called off by the petitioner.

9. The learned Government Advocate (Criminal Side) opposed for grant of anticipatory bail to the petitioner since the FIR is filed under sections 7, 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST (Prevention of



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Atrocities) Act, 1989 and there is a bar for granting anticipatory bail under section 18 of the Act.

10. The said issue of granting anticipatory bail is bar under section 18 of the Act was already considered by Hon'ble Supreme Court in the case of *Shajan Skaria vs State of Kerala and Another* reported in (2024 SCC Online SC 2249) and the relevant portion under 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 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



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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."

11. The Learned Counsel appearing for the petitioner 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 anticipatory 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



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offence.

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12. In the Shajan Skaria's 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



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"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.

13. 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



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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.

14. In the present case the sections that are invoked against the petitioner is sections 7, 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST of the SC/ST Act. The section 7 states as under:

"7. Forfeiture of property of certain persons.-(1) Where a person has been convicted of any offence punishable under this Chapter, the Special Court may, in addition to awarding any punishment, by order in writing, declare that any property, movable or immovable or both, belonging to the



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person, which has been used for the commission of that offence, shall stand forfeited to Government.

(2) Where any person is accused of any offence under this Chapter, it shall be open to the Special Court trying him to pass an order that all or any of the properties, movable or immovable or both, belonging to him, shall, during the period of such trial, be attached, and where such trial ends in conviction, the property so attached shall be liable to forfeiture to the extent it is required for the purpose of realisation of any fine imposed under this Chapter."

The said section is applicable at the time of conviction. The section states to attach the property of the accused and if convicted in order to realise the fine from the attached property. The present case is at FIR stage and hence the said section is not applicable.

15. The sections 3(1)(r), 3(1)(s) shall be considered. 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,–



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- (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 concerned there was promise to marry, engagement was conducted but the marriage was called off. And the engagement happened before several persons but the calling off the marriage was not in public place. When the occurrence had not happened in public, then the ingredient "public view" may not be there. 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 case under sections 3(1)(r), 3(1)(s) are not made out.

16. The next allegation against the petitioner is under section 3(2)(va) and the relevant portion is extracted hereunder:

- (2) *Whoever, not being a member of a*



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Scheduled Caste or a Scheduled Tribe,—

(i)...

(va). commits any offence specified in the Schedule, against a person or property, knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with such punishment as specified under the Indian Penal Code (45 of 1860) for such offences and shall also be liable to fine;

(The sub clause (va) was amended by Act 1 of 2016 with effect from 26.01.2016)

The aforesaid section is applicable whenever the IPC sections stated under the schedule are attracted. In the present case the BNS sections invoked are 81 and which is equal to section 493 IPC. The said sections of 493 IPC is not stated in the said schedule. When the sections stated in the schedule are not attracted, then the section 3(2)(va), may not be attracted. Therefore, this Court is of the considered opinion that the prima facie case under section 3(2)(va) was not attracted, consequently the petitioner is entitled to anticipatory bail.



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18. 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 learned Judicial Magistrate, Ambasamudram, Tirunelveli District, within a period of fifteen days from the date on which the order copy is made ready 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;



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[b] the petitioner shall report before the respondent police daily at 10.30 a.m, until further orders;

[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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TO

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1. Judicial Magistrate,
Ambasamudram, Tirunelveli District.

2. The Inspector of Police,
All Women Police Station,
Ambasamudram,
Tirunelveli District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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