



CRL OP(MD). No.439 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 21/01/2025

PRESENT

The HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL OP(MD). No.439 of 2025

Mohammed Tharik Anvar @ Thar,
Ik, S/o Rajamohamad, No. 27(1) Pulavar
1st Street, Begampur, Pallapatti (Po),
Dindigul District. 624 002.

... Petitioner/Accused No.1

Vs

The State of Tamil Nadu,
Rep by the Inspector of Police,
Dindigul Town North Ps, Dindigul
District. Crime No. 1292/2024.

... Respondent/Complainant

For Petitioner : Mr.Karuppasamy Pandian,
for Mr.S.Vishnuvardhan,
Advocate.

For Respondent : Mr.S.Ravi,
Additional Public Prosecutor



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ORDER

Today, the matter is listed under the caption “for being mentioned”. The bail petition came up for hearing yesterday and this Court after considering the submission made on either side and after recording the submission made by the learned Additional Public Prosecutor to the effect that steps are being taken to pass detention order under Act 14 of 1982, was pleased to grant bail to the petitioner and the order was dictated in the open Court.

2. During the course of Court proceedings, the learned Additional Public Prosecutor brought to the notice of this Court that the detention order has already been passed against the petitioner and the copy of the same was also placed before this Court.

3. In the light of the said submission made by the learned Additional Public Prosecutor, the matter was directed to be listed to-day under the caption “for being mentioned”.



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4. The learned counsel for the petitioner submitted that, the provisions of the detention law is being misused in this case by the respondent police and that the passing of the detention order cannot be a bar for this Court to grant bail to the petitioner.

5. The learned counsel for the petitioner, in order to substantiate his submissions, relied upon the judgement of the Apex Court in *Nenavath Bujji Etc. Vs. The State of Telangana* reported in [2024] 3 SCR 1181 : 2024 INSC 239. He also relied on the judgement of the Division Bench of this Court in *Snitha Vs. Additional Chief Secretary to Government*, reported in 2022(3) Mad WN (Cri) 430.

6. Per contra, the learned Additional Public Prosecutor submitted that the detention order was already passed against the petitioner by the time the bail order was passed by this Court against the petitioner and hence the petitioner has to independently challenge the same and work out his remedy in accordance with law and that the petitioner will not be entitled to be enlarged on bail, when the detention order is in force.



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7. In order to appreciate the above submissions, the order passed yesterday is reproduced hereunder:

2. The case of the prosecution is that on 27.12.2024, the petitioner is said to have way-laid the defacto complainant and at knife point, robbed a sum of Rs.1000/- from the defacto complainant and also threatened him with dire consequences.

3. The learned Additional Public Prosecutor appearing for the respondent Police submitted that the petitioner is a habitual criminal, who has seven previous cases against him, out of which, one is a murder case and two cases are for offences under the NDPS Act. He further submitted that there are two rival gangs that are operating in Dindigul and this petitioner belongs to one of the gang. It was further submitted that in the murder case, there was already a retaliation and accused No.2 in that case was done to death by the rival gang. He concluded his arguments by submitting that already steps are being taken to detain the petitioner under Act 14 of 1982. Hence, the learned Additional Public Prosecutor vehemently opposed the grant of bail to the petitioner.



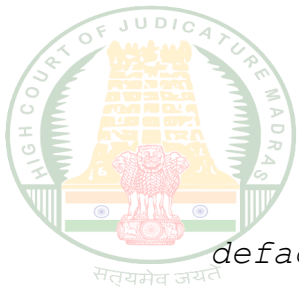
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4. *Per contra*, the learned counsel appearing for the petitioner submitted that a false case has been foisted against the petitioner and the present First Information Report has been registered only to detain the petitioner under Act 14 of 1982. He further submitted that even in the murder case, the petitioner was enlarged on bail and in two of the cases, the petitioner was already acquitted by the trial Court.

5. This Court has carefully considered the submissions made on either side and the materials available on record. This Court also had the advantage of going through the previous cases that are pending against the petitioner.

6. This Court makes it clear that steps that are taken to pass detention order against the petitioner under Act 14 of 1982, will not in any way tie the hands of this Court to consider the bail application. In other words, this Court cannot keep the bail application pending to enable the authority to pass the detention order. This Court has to independently deal with the bail application on its own merits.

7. In the instant case, the petitioner is alleged to have robbed a sum of Rs.1000/- from the

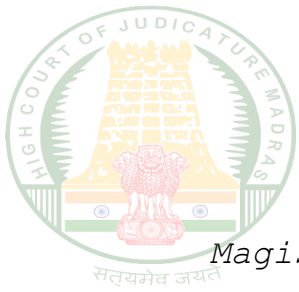


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defacto complainant by showing a knife. For this offence, the petitioner has suffered incarceration from 28.12.2024. Surprisingly, till date, test identification parade has not been conducted and the petitioner has not even been taken on police custody. On going through the list of cases pending against the petitioner, it is seen that there is one murder case pending investigation in Crime No.447 of 2023 before the Dindigul North Police Station. Two other cases are under the NDPS Act in which intermediate quantity is involved. This Court also takes into consideration the fact that the petitioner has suffered incarceration from 28.12.2024. This Court also takes into consideration the submissions of the learned Additional Public Prosecutor that there is a chance of retaliation in this case. Hence, this Court is inclined to grant bail to the petitioner subject to the following conditions.

8. Accordingly, the criminal original petition is ordered and 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 learned Judicial Magistrate No.II, Dindigul and on further conditions that:-

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the



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Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall stay at Trichy and report before the Fort Police Station daily at 10.30 a.m. and 05.30 p.m. until further orders.

[c] the petitioner shall not tamper with 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 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, 2023.

8. The legality or otherwise of the detention order passed against the petitioner cannot be gone into by the bail Court and it has to be agitated only before the concerned Bench, which is dealing with the portfolio.



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9. However, mere passing of the detention order against the petitioner cannot be a bar for deciding the bail application filed by the petitioner. Hence, the order passed yesterday shall stand as it is and liberty is granted to the petitioner to work out his remedy against the detention order passed against him.

10. Accordingly, this Criminal Original Petition is disposed of.

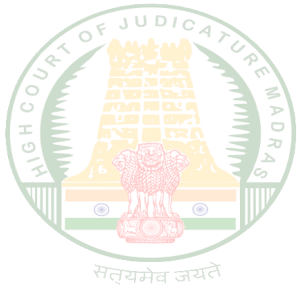
(N A V J)
21.01.2025

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Note : Issue Order copy on 21.01.2025
TO

1. Judicial Magistrate No.II, Dindigul.
2. Do-Through The Chief Judicial Magistrate,
Dindigul District.
3. The Superintendent, District Jail, Dindigul.
4. The Inspector of Police,
Dindigul Town North Ps, Dindigul
District. Crime No. 1292/2024.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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