

IN THE COURT OF PRINCIPAL SESSIONS JUDGE, CHENNAI

**Present: Thiru.S.Karthikeyan, M.A., M.L., M.Sc., P.G.D.C.F.Sc., P.G.D.D.F.,
Principal Sessions Judge.**

Tuesday, the 28th day of April, 2026

CrI.M.P.No. 6/2025

in

SC.No. 425/2024

in

Crime No.293/2024

Mrs. S.Malarkodi,

.. Petitioner/Accused-30

Vs.

1. State Rep. by
Assistant Commissioner of Police,
K-1, Sembium Police Station,
Chennai.

.. Complainant/Respondent

This petition is coming up on this day before this court for hearing in the presence of M/s.N.K.Arulmuruganandham, M. Mainckaraj, M.Deepan, S.Ramprabhu, B.Muthukumar, the Counsel for the petitioner and of the Senior Public Prosecutor for respondent police and upon hearing both sides, this Court delivered the following,

ORDER

The petitioner/A30 has come up with present application seeking for discharge.

2. The petitioner, in her petition, submitted as below:

The petitioner/A30 herein was arrested on 16.07.2024 and was in judicial custody till date of filing of application and the petitioner was charged u/s. 103 (1) r/w. S.49 of BNS. The prosecution case is that on 05.07.2024 when the deceased Mr.Armstrong was standing before the house he is building in Venugopal swamy

temple Street, Perambur he was attacked by 8 people with knives and swords and injured him fatally resulting in his death on the way to the hospital. The said 8 persons also attacked the deceased's brother Veeramani, his driver Abdulgani when they tried to protect the deceased and threatened the public present there with death. Initially, the complainant police filed a FIR under Sections 191 (2), 191 (3), 118 (1), 103, 351 (3) of BNS which was later altered to Sections 61(2), r/w. S.103(1), 191(3), 351(3), 109, 238 r/w 190, 49 of BNS, 4(b) r/w S.5, 6 of Explosive Substances Act, 1908 and S. 3 r/w. S. 25 (1B)(a) of Arms Act 1958.

According to the prosecution version, it is alleged that 1st Accused Mr.Nagaendran is a life convict in the murder case of Stanley Shanmugam and is a inmate of Vellore central Prison, 2nd Accused Mr. Sambhava Senthil @ Senthilkumaran is an absconding Accused in many criminal cases 3rd Accused Mr.Aswathamam is the son of 1st Accused Mr. Nagendaran, 4th Accused Mr. Arul is the brother in law of one Mr. Arcot Suresh who was murdered in 2023, 5th Accused Balu @ Ponnai Balu is the blood brother of Mr. Arcot Suresh who was murdered in 2023. 6th Accused Mr. Ramu @ Vinoth, 8th Accused Mr. Thirumalai, 9th Accused Mr.Manna @ Manivannan, 13th Accused Mr. Santhosh, 14th Accused Mr. Selvaraj and 16th Accused Mr. Pradeep are all relatives of Mr. Arcot Suresh who was murdered in 2023. Mr. Thiruvengadam who was killed in the alleged encounter of the police on 14.07.2024 is the friend of Mr. Arcot Suresh who was murdered in 2023. 10th Accused Mr. Shiva @ Shiva Sakthi, 11th Accused Mr. Appu @ Vijay, 13th Accused

Mr. Kozhi @ Gokul are friends of 9th Accused Mr. Manna @ Manivannan. 15th Accused Mrs. Porkodi is the wife of Mr. Arcot Suresh who was murdered in 2023. 17th Accused Mr. Hariharan is an Advocate and friend of 2nd Accused Mr. Sambhava Senthil @ Senthilkumaran and 18th Accused Mr. Mottai Krishna @ Krishna kumar. 20th Accused Mr. Satishkumar is the driver of 4th Accused Mr. Arul. 19th Accused Mr. Haridharan is the friend of 17th Accused Mr. Hariharan, 21st Accused Mr. Shiva is the friend of 18th Accused Mr. Mottai Krishna @ Krishna kumar. 22nd Accused Mr. Appu @ Pudur Appu is the friend of 2nd Accused Mr. Sambhava Senthil @ Senthilkumaran and 18th Accused Mr. Mottai Krishna @ Krishna kumar. 23rd Accused Mr. Mugilan, 24th Accused Mr. Noor @ Vijayakumar, 25th Accused Mr. Appu @ Vignesh, 26th Accused Mr. Rajesh, 27th Accused Mr. Gopi and 28th Accused Mr. Kumara @ Senthilkumar are the friends of Mr. Appu @ Pudur Appu. 29th Accused Ms. Anjalai was in living together with Mr. Arcot Suresh who was murdered in 2023 and finally 30th Accused Mrs. Malarkodi is the friend of 4th Accused Mr. Arul and 17th Accused Mr. Hariharan.

The prosecution alleges that the 1st Accused Mr. Nagendran and the 2nd Accused Mr. Sambhava Senthil @ Senthilkumaran had become acquainted and had become close and in the year of 2015 one Mr. Thenarasu who was north Chennai district secretary of Bahujan Samaj Party was murdered and the deceased victim Mr. Armstrong who was the state head of Bahujan Samaj Party took initiatives to transfer the case to CBCID and because of the same, 1st Accused Mr. Nagendran was

arrested further in the years 2023 one Advocate Mr. Sekar belonging to the Bahujan Samaj Party created a lay out to sell lands in Orakadu village through Harihanth Foundation and the 3rd Accused Mr. Aswathaman threatened Mr. Sekar to give him 10 acres of land and the said Mr. Sekar refused and for the same he was threatened by 1st Accused Nagendaran on 22.02.2023 when he was brought to the hospital through phone and the said Mr. Sekar lodged a complaint on the advise of deceased and later the deceased intervened in the said problem and made the 3rd Accused to apologise to Mr. Sekar and the complaint was withdrawn. Further, the 3rd Accused believed that Mr. Armstrong is behind his arrest in a dispute with one Mr. Jayaprakash of Minjur and due to the same 3rd Accused lost opportunity to contest the elections and due to the above said incidents he was having animosity with the deceased Mr. Armstrong.

The Mother of the 2nd Accused bought a house at Kilpakkam in the year 2005 and some friends of the deceased were running a cable TV in the name and style of Happy Entrainment in that building and vacated the building only after receiving Rs.12,00,000/- (Rupees twelve lakh only) and due to the above said incidents he was having animosity with the deceased. In the meantime Mr. Arcot Suresh was a friend of one Mr. Ottrai kann Jeyabalu who was in turn friend of the deceased and due to some dispute between them, there was a animosity between them and the said Mr. Arcot Suresh was murdered on 18.08.2023 and A4 and A5 along with their friends decided to take revenge for the murder of Mr. Arcot Suresh and the A15 helped them monetarily by giving the 10 soverign bracelet of Mr. Arcot Suresh. Then A4 met A3

and solicited his support to their conspiracy to murder Mr. Armstrong and after consulting his father Mr. Nagendaran, A3 assured their support to the murder plan.

Then A4 contacted A2 through A17 and solicited his support to their conspiracy to murder Mr. Armstrong and A2 supported the murder conspiracy by providing materials and money. Other Accused supported the conspiracy by taking part in the conspiracy and aiding the conspirators and as a consequence on 05.07.2024 when the deceased was standing before the house he was building in Venugopal Swamy Temple Street, Perambur he was attacked by 8 people with knives and swords and injured him fatally resulting in his death on the way to the hospital. The said 8 persons also attacked the deceased victim's brother Veeramani, his driver Abdulgani when they tried to protect the deceased victim and threatened the public present there with death.

The prosecution alleges that the petitioner herein/A30 inpite of knowing about the conspiracy to murder Mr. Armstrong has not informed the police department and aided the conspiracy by hiding the information from Police and was charged under sections 103 (1) r/w Section 49 of BNS. The petitioner herein was taken into illegal custody of the respondent police herein on 15.07.2024 at about 9.30 PM against the direction of her advocate herein lodged a complaint with the Human rights commission. So the respondent police had roped her in this case to escape the said complaint and the same can be proved by the HRC complaint and mails to police officials and the video proof of illegal detention and audio clips.

The petitioner is not at all connected to this case. A4 is her classmate in her college and A17 is her family advocate and a close friend of his sons and used to stay in her house for days together. The petitioner herein is not at all aware of any murder conspiracy to murder Mr. Armstrong as alleged in the charge sheet. Except the extra judicial confession of A17 before the police, there was no other material for charging her for the offences, as reflected in the charge sheet. As per Section 25 of the Indian Evidence Act, 1872 the confession before the police officer is not an admissible piece of evidence and the petitioner cannot be charged on the basis of the said confession.

Except the extrajudicial Confession statement of A17 before the police, there was no other material mentioned in the chargesheet even remotely suggesting the Involvement of the petitioner herein and there was absolutely no material at all for framing charges against the petitioner in respect of the offences pointed out by the respondent. The petitioner herein was charged under Sections 103 (1) r/w Section 49 of BNS and Section 49 of BNS reads as "Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Sanhita for the punishment of such abetment, be punished with the punishment provided for the offence."

To be charged under Section 49 of BNS the Accused should have actively taken part in the conspiracy. Even for argument sake, if the confession of A17 is admitted, a bare reading of the same would go to show that the petitioner herein was not at all aware of the planning or specifics or details about the place of the crime or

had not in any way aided the alleged murder conspiracy. To be charged under section 49 of BNS the Accused should have actively aided and taken part in the conspiracy but the petitioner herein was by any stretch of imagination charged. In the alleged extra judicial confession of A17 nowhere it is revealed that the petitioner herein have any prior knowledge of the alleged murder conspiracy. Hence, the charge against the petitioner is baseless and liable to be quashed. The petitioner herein was taken in to illegal custody of the respondent police herein on 15.07.2024 at about 9.30 PM. Against the direction of her advocate, she lodged a complaint with the Human rights commission. Hence, the respondent police had roped her in this case to escape from the said complaint and the same can be proved by the HRC complaint and mails to police officials and the video proof of illegal detention and audio clips. She is not at all connected to this case. Article 20 (3) of Constitution of India states that No person Accused of any offence shall be compelled to be a witness against himself and as such there was no evidence or witness against the petitioner herein she cannot be charged on the basis of her confession or confession of the co Accused.

At the time of committal and framing charges, the court is required to confine its attention to only those materials collected during investigation which can be legally translated into evidence and not upon further evidence (dehors those materials) that the prosecution may, adduce in the trial, which would commence only after the charges are framed and the Accused denies the charges and there was nothing in the chargesheet to proceed against this petitioner. No other material is

available to convert into either oral or documentary evidence as substantive evidence for consideration and in absence of which, there would be no use of corroborative evidence, namely, the confession of A17, if used during trial. There is no direct evidence to prove the conspiracy. Even according to the case of the prosecution, there is not even single circumstance to indicate that the petitioner has committed conspiracy with other Accused except the confession of co Accused. Hence, the charge against the petitioner is baseless and petitioner shall be discharged. Further, no offences were made out against the petitioner as stated in the final report. The documents and evidence projected by the investigation agency are not at all sufficient to hold the petitioner as stated in the charge sheet and hence the charge against the petitioner is baseless and petitioner shall be discharged.

The investigation agency had not properly investigated the case and the statements were prepared by them without getting proper statements and the petitioner herein was taken into illegal custody, beaten, intimidated and coerced to sign the alleged confession and the alleged extra judicial confessions cannot be relied to charge the petitioner. The ingredients necessary to constitute an offence levelled against this petitioner are not available in the materials filed by the prosecution along with the charge sheet filed in this case. The necessary ingredients to constitute offence under sections 103 (1) r/w Section 49 of BNS and sec 49 of BNS are not available on the face of the records and other materials placed by the respondent before this court. If the above trial is allowed to be continued, the reputation and

safety of the petitioner herein will be severely damaged and considering the same this court may discharge the petitioner/A30 from the above case. Therefore, it is most humbly prayed that this Hon'ble Court may be pleased to discharge the petitioner herein from this case.

3. The respondent in his counter contended as below.

The Petition filed by the petitioner/A30 is bereft of merits and the same is neither maintainable in law nor sustainable in facts and deserves to be dismissed. The Petitioner is arrayed as Accused No.30 in the final report filed by this respondent in SC No.425/2024. The case of the prosecution is that the petitioner/A-30 was a close Associate of A-4 Arul and she was also close to A-17 Hariharan. A-17 used to visit the petitioner/ A-30 often in her house. A-17 informed the petitioner/A-30 that Senthil Kumaran alias Sambava Senthil/A-2 was going to have Mr.Amstrong murdered shortly and that he had given Rs.4 lakhs in cash and 2 country bombs for enabling and accomplishing that mission. After gaining knowledge about the conspiracy and plan to murder Mr. Amstrong, the petitioner/ A-30 did not inform the police about the same and acted hand in glove with the perpetrators of the crime. The prosecution arrested the petitioner/A-30 on 16.07.2024 after obtaining the confession by Hariharan/A-17 (L.D No.256) and arul/ A-4 [L.D No.246).

The prosecution has produced the cellphone seized from the petitioner/A-30 (L.D No.302). The prosecution have obtained the CDR and CAF of Cell number

9176580077 used by the petitioner/A-30 [L.D No. 571 & 626). Arul/A-4 and Hariharan/A-17 have rendered confessions (L.D No.246 & 256) and the petitioners herself have given confessions (L.D.No. 255) which lead to discovery and recovery of the articles. The prosecutions have also been able to trace and produce financial exchanges between A-17 Hariharan and the petitioner/A-30 through bank transfers from January 2024 to June 2024. (L.D No.659 & 661]. All these materials point out to the involvement and complexity of the petitioner in the offence.

There are enough materials available on record before this Hon'ble court. There is sufficient ground for proceeding against the petitioner/ A-30. The petitioner/A30 has clearly entered into a criminal conspiracy with the other Accused and pursued the common object to do an illegal act of murdering the deceased Mr. Amstrong. She has been a party to the criminal conspiracy to commit the murder of Mr. Amstrong not stopping with this she has also abetted the commission of the offence and as a consequence the offence was committed. She has instigated and assisted the other Accused to go ahead with the murder of Mr. Amstrong.

There is sufficient material to proceed against the petitioner/A30 for offences under section 103(1) r/w 49 BNS and it cannot be said or contented that there is no sufficient ground for proceeding against petitioner/A30 and discharge her from the above case.

At the stage of framing charge it has to be only seen and considered by this Hon'ble court whether there is sufficient ground to proceed further against the

Accused. At this stage the evidentiary value or merits of the evidence cannot be tested or a discharge from the case, it is only necessary at this stage to decide whether there is any ground to proceed further against the Accused or whether the charge against the Accused is groundless. In this case the Accused before this court are charged with heinous and serious offences. The Accused in this case have conspired and murdered the deceased Mr. Amstrong who was a popular political leader in the state of Tamil Nadu. Therefore, in the above circumstances the mandate of law and interest of justice both required that the respective charges with which the Accused in this case are charged with are framed and the trial of the case is conducted on merits with accordance with law. Hence, it is prayed to dismiss the application for discharge filed by the petitioner/ Accused and thus render justice.

4. Both side heard. Petition, Affidavit and counter are perused. The prosecution materials are perused.

5. Point for determination is

Are there materials available as against the petitioner/A30 to frame charges against her or not?

6. ANSWER:

The learned counsel for the petitioner submitted that A4 is the class mate of this petitioner. In A4 confession, the involvement of the petitioner was not disclosed. However, the prosecution is tried to implicate the petitioner herein based

on the confession of A17. According to the learned counsel for the petitioner, absolutely there is no motive for the petitioner either to abet the above crime or to commit as alleged. A4 is counsel for A30. Therefore, in this connection they have spoken frequently in the cell phones. Since the petitioner herein had raised complaint against respondent police with Human Rights Commission, she was falsely implicated in this case. Even in A17's first confession, the involvement of the petitioner was not disclosed. The cell phone is yet to have recovered, there is no linking the evidence to connect the crime with the petitioner. The prosecution has not done any forensic examination of the cell phone recovered. The confession alone cannot be translated into legal and acceptable evidence at the time of trial. Therefore, according to the learned counsel for the petitioner, there is no material to frame charges against A30.

7. The learned Senior Special Public Prosecutor has contended that the petitioner herein is arrayed as A4 and A17. A4 in his confession has admitted that the petitioner and A4 are studied Law in the same college. He used to frequent to house and used to speak to her through cell phone. Further, A17 Hariharan, in his confession clearly disclosed the involvement of the petitioner herein.

8. Apart from that, the learned Senior Special Public Prosecutor has relied upon the Call Details Records, LD No. 574, that there were calls between A17 and A30 on the date of occurrence before and after occurrence. Further, the learned Senior Special Public Prosecutor has relied upon the statement of Malarkodi bearing

account no. 35861255053 to show that there are money transaction between A17 and A4. Therefore, according to the learned Senior Special Public Prosecutor, there are materials to proceed against the petitioner.

9. From the submissions of the learned Senior Special Public Prosecutor, it is found that the petitioner is the friend of A4 and A17 and they were frequently talked with each other. The learned counsel for the petitioner submitted that A4 and A17 are the Advocates of the petitioner and therefore, they bound to talk with the petitioner in connection with the other cases. However, at this stage, it cannot be ascertain whether the calls were made with regard to get in any legal advise in respect of other cases or discuss the plan of murder of deceased Armstrong in this case. It is a matter for trial. The prosecution relied upon Account statement to show that this petitioner has transacted with A17 and transferred money on several occasions. The defence has contended that they are professional fees payable to A17. As stated supra, whether it is a professional fees or otherwise, need to be ascertain only during trial after allowing the parties to let in acceptable evidence. At this stage of discharge, the court cannot conduct mini trial to find out the reasons for the above said transactions.

10. Though the learned counsel for the petitioner submitted that the confession alone cannot be put against the petitioner as it cannot be translated into legally acceptable evidence during trial, from the submissions of the learned Special Public Prosecutor, it is found that the prosecution has not only relied upon the confession

but also the other circumstances as stated supra. Since the conspiracy is hatched in secrecy it cannot be proved through direct evidences. The conspiracy can be proved only through the circumstances which gives an inference of conspiracy. Therefore, there are sufficient materials available as against the petitioner herein, hence, this petition is dismissed.

11. Result:

In the result, this petition is dismissed.

Dictated to the stenographer, transcribed by him, corrected and pronounced by me in the open Court, on this the 28th day of April, 2026.

**Principal Sessions Judge
Chennai**