

In the Court of Principal Sessions Judge, Kanniyakumari District
at Nagercoil.

Present : Thiru B. Karthikeyan, B.L.,
Principal Sessions Judge.

Wednesday, the 11th day of March, 2026

Crl.M.P. No. 837/2026

(CNR.No.TNKK01-001292-2026)

Rafiya C/o. Nandhini

..Petitioner

/Vs./

The State of Tamil Nadu,
through the Inspector of Police,
Aralvaimozhi Police Station,
Crime No.776/2025 of Aralvaimozhi Police Station
Rep by Public Prosecutor, Nagercoil.

..Respondent

This petition is filed by Advocate Thiru P.G.I. Thanu, u/s 482 of
BNSS praying to grant anticipatory bail to the petitioner.

ORDER

Heard both side. Perused the petition.

2. The petitioner/accused is alleged to have committed the
offences u/s. 303 (2) of BNS.

3. The case of the prosecution is that on 16.12.2025, while the
defacto complainant parked his two wheeler on the roadside for the purpose

of urination, one transgender committed theft of 6 sovereigns of gold jewels, which were kept inside the said vehicle. Hence the charge.

4. The learned counsel for the petitioner submitted that the name of the accused is mentioned in the FIR and due to previous enmity, the respondent police threatened the petitioner and the petitioner is innocent and she never did any such act and she has no knowledge about the occurrence and this is the 2nd anticipatory bail petition and the earlier petition in CrI.M.P. No.577/2026 was dismissed by this court on 20.02.2026 and the petitioner is ready to abide by any condition and prayed for anticipatory bail to the petitioner.

5. The learned Public Prosecutor opposed the application and submitted that on 16.12.2025 at 11.30 A.M., the defacto complainant parked his motorcycle and at that time, this petitioner stolen 5 sovereigns of golden chain and 1 sovereign of golden ring, which were kept in the motorcycle and escaped from the scene of occurrence and the property not yet recovered and the custodial interrogation of the petitioner is highly essential and the petitioner may be directed to appear before the police for one day custody.

6. The learned Public Prosecutor objected the property is to be recovered from the petitioner and her custodial interrogation is highly essential. The Hon'ble Supreme Court in various decisions including the decision in *Gurbaksh Singh Sibbia Vs. State of Punjab* reported as *AIR*

1980 SC 1632, by noting that the court has to strike a balance between the individuals right to personal freedom and the investigational rights of the police, had pointed out to its earlier orders of anticipatory bail, wherein while granting such orders to many a person had imposed conditions set out in Section 438(2) (i) (ii) and (iii) of Cr.P.C., (now Section 482 (2) (i) (ii) and (iii) of BNSS), in addition to the direction in most of those cases, that the applicant should surrender himself to the police for a brief period if a discovery is to be made u/s 27 of the Evidence Act (now Section 23 of the Bharatiya Sakshya Adhiniyam, 2023) or that he should be deemed to have surrendered himself, if such discovery is to be made. In other words, the Supreme Court, in order to balance the right of an individual to personal freedom and the investigational rights of the police, even while granting anticipatory bail, has allowed, custody of the accused for a brief period for facilitating discovery u/s 27 of the Evidence Act.

7. In the present case, considering the nature of the offence and the argument of the learned Public Prosecutor, it would be appropriate to adopt the said approach of Hon'ble Supreme Court, so that both the rights referred above are balanced. As such, this petition deserves to be allowed with conditions.

8. In the result, in the event of arrest or on her appearing before the court concerned the petitioner is ordered to be enlarged on bail

on her executing a bond for a sum of Rs.10,000/- with two sureties each for a likesum to the satisfaction of Judicial Magistrate, Boothapandy subject to the following conditions:-

- i. The petitioner shall surrender before the SHO, Aralvaimozhy Police Station on 14.03.2026 before 9.00 A.M. without fail, upon which she shall be in the custody of the Investigation Officer of Crime No.776/2025 of Aralvaimozhy Police Station, till 6.00 P.M. The said period shall be used by the Investigation Officer for investigation, after which she shall be released from custody.
- ii. The petitioner shall appear before the court concerned within fifteen days from today without fail.
- iii. After release, the petitioner shall appear and sign before the respondent police daily at 10.00 A.M. until further orders.
- iv. The petitioner shall also make herself available before the respondent as and when required.
- v. The petitioner shall not tamper with the witnesses or in any manner interfere with or put obstacle to the smooth progress of investigation.
- vi. The petitioner shall not leave the jurisdictional police limit without prior permission.

If there is any violation of condition, the Investigation Officer is with in his discretion to approach the court of the learned Judicial

Magistrate for cancellation of bail even though bail granted by the Sessions Court as per the ruling of the Hon'ble Supreme Court reported in **P.K.Shaji /Vs./ State of Kerala, (2005) AIR S.C.W. 5560.**

Pronounced by me in open court this the 11th day of March, 2026.

Principal Sessions Judge,
Kanniyakumari at Nagercoil.

To
The Judicial Magistrate, Boothapandy. (through e-mode).
The Inspector of Police, Aralvaimozhy Police Station.
(through court cell e-Mode)
The counsel for the petitioner.