

IN THE COURT OF THE JUDICIAL MAGISTRATE NO-II AT ARIYALUR

Present: Tmt. S. Swapna, B.A., B.L.,(Hons)

Judicial Magistrate No-II, Ariyalur.

Thursday the 21st day of May 2026

CrI.M.P. No.755/2026 in Cr. No.72/2026

(On the file of the Thirumanur P.S, Ariyalur)

1) Mohammed Helaluddin (34/2026) -A1

S/ o Mohammed Sanaullah,
Horishpur, Chapainawabganj,
Bangladesh – 006290

2) Mohammed Babul (38/2026) -A2

S/o Mohammed Abdul Qasin,
Horishpur, Chapainawabganj,
Bangladesh – 006290

3) Mohamlned Tajel Uddinbabu (29/2026) -A3

S/o Mohammed mojiapur, Chor,
Horishpur, Bangladesh – 006290

4) Mohammed Sohel (19/2026) -A4

S/o Mohammed sadikul,
Chor, Hosishpur,
Bangladesh – 006290

5) Mohammed Umar Ali (38/2026) -A5

S/o Mohammed Abdul Qasim,
Chor, Horishpur, Chapainawabganj,
Bangladesh – 006290

6) Mohammed Al Amin (19/2026) -A6

S/o Mohammed shahzahan,
Sujonpara, Rajshai,
Bangladesh – 006290

7) Mohammed Farhad Ali (29/2026)-A7

S/o. Mohammed azad ali,
Rachiachar, Chapainawabganj,
Bangladesh – 006300

8) Mohammed Yasin Ali (25/2026) -A8

S/ o Mohammed zahrul islam,
Rahaichar, Chapainawabganj ,
Bangladesh – 006300

9) Mohammed Abu Hanif Parash (18/2026) -A9

S/ o Mohammed helal uddin,
Rahaichar, Chapainawabganj ,
Bangladesh – 006300

10) Mohammed Atabur Rahman (41/2026) -A10

S/o Mohammed aminulh aque,
Jehanbad, Rajshai,
Bangladesh – 006291

11) Mohammed Ali Hossen (42/2026). -A11

S/o Mohammed rustam all,
Jehanbad, Sulttanganj,
Bangladesh - 006291

12) Mohammed Sekjalma (42/2026) -A12

S/o Mohammed amir ali,
Jehanpaja, Slutanganj,
Bangladesh - 006291

13) Mohammed Saibur Rahman (38/2026) -A13

S/o Mohammed deldar hossain,
Debi wagar, Chapainawabganj,
Bangladesh - 006800

- Petitioners/Accused

Vs.

The State rep. by the Inspector of Police,
Thirumanur P.S, Ariyalur
Cr.No.72/2026

- Respondent/Complainant.

This application coming on 21.05.2026 before me for final hearing in the presence of the Advocate Thiru. V. Muthukumaran, B.A., B.L., appearing for Petitioners/Accused and Assistant Public Prosecutor Grade-2, appearing for state, upon hearing arguments of both parties, perusing the records and having stood over for consideration till this day, this court delivers the following,

Order

01. The Petitioners/Accused has been filed this Petition for bail under Section – 187(3)(ii) of the Bharatiya Nagarik Suraksha Sanhita for the alleged offence Under Sections 3 r/w 21 of Immigration and Foreigners Act 2025.

02. The Petitioners/Accused counsel would submit that the date of occurrence is 09.03.2026 and the FIR registered on 09.03.2026. The accused were remanded to judicial custody on 10.03.2026. The respondent has not completed their investigation and they have not filed the charge sheet even after 60 days. So the petitioners are entitled get bail as statutory right. A defective charge sheet returned by the court can't be construed as a final report filed in the eye of law. The petitioners/accused are innocent and they are in no way connected with the offence. They are never indulges in any such antisocial activities. Due to poverty for the purpose of livelihood the petitioners are came to India. They have no any illegal intention. The previous applications for the same relief was dismissed in CrI.M.P. No : 409/2026 by this Hon'ble court on 18.03.2026. Only for the purpose of lively hood the petitioners are came to the India, they have no relative or friends execute sureties, so they may be enlarge the bail with their own bond. The Petitioners/Accused are only earning member of the family and all other family member are depending upon the income of the petitioners. If they allowed to behind the bar, it will spoil the entire family. Their absence would work much havoc upon the petitioners and their family. The Petitioners/Accused undertakes that they will not abscond or avoid trial and they will not tamper with the

witnesses. The petitioners/Accused undertakes to furnish sufficient sureties for their appearance.

03. It is the application for Statutory Bail filed under Section – 187(3)(ii) of the Bharatiya Nagarik Suraksha Sanhita. Hence notice to prosecution is dispensed.

04. This court had carefully considered the submissions of the petitioner. It is noticed from the records that the FIR registered on 09.03.2026 under Sections 3 r/w 21 of Immigration and Foreigners Act 2025 and the Accused remanded on 10.03.2026. In view of section 21 of Immigration and Foreigners Act the offence shall be punishable with **an imprisonment for a term which may extend to five years** or with fine which may extend to five lakh rupees or with both. And on considering “Section 187(3)(ii) of BNSS - “sixty days, where the investigation relates to any other offence” Hence, the Investigating Officer has a time period of about 60 days to file final report for the offences under Sections 3 r/w 21 of Immigration and Foreigners Act 2025.

05. From the date of remand ie., 10.03.2026 the final report has to be filed within 08.05.2026. In this case the Final report e-filed on 14.04.2026. Final Report has not been taken on file and has raised objections for non production of seized case properties. This Mandatory Bail application filed on 20.05.2026. The Petitioner counsel has submit an argument before this court that the charge sheet was not filed without completing the investigation and it is a defective charge sheet. Hence mere filing of charge sheet will not extinguish the indefeasible right available to the accused under sec.187(3)(ii) of BNSS. The counsel for Petitioner relied upon the decision by Hon’ble High Court of Madras in CrI.R.C.No.1203/2025, Dated 07.08.2025 in the case of C.Raja Vs. The State rep by the Sub Inspector of Police, K-8, Arumbakkam PS, Chennai. In that precedent, the dictum of the **Hon’ble Supreme Court of India reported in CDJ 2023 SC**

391 in the case of **Ritu Chhabaria Vs. Union of India & Others**, discussed in Para No.17 of supra mentioned Judgment, wherein, it was held that, “If a charge sheet was not filed without completing the investigation and the same is used for prolonging remand, it would in effect negate the purpose of introducing Section 167(2) of the Cr.P.C and ensure that the fundamental rights guaranteed to accused persons are violated.” This Judgment is squarely applicable to the case on hand. The prosecution filed a final report without producing the case properties which were seized at the time of remand. The seized case properties should be produced before the Court as it forms part of investigation. This Court is of the view that, the final report filed by the prosecution through e-filing mode is a defective one. And further the prosecution till date has not complied the objection and rectify the defects raised by this court. This court is of the view that remand of accused in Pre-cognizance stage more than the statutory period as stipulated under the act amounts to illegal detention.

06. It is noticed from the records that the Petitioners/Accused has been in custody for the past 72 days. The right accrued to the Petitioners/Accused are indefeasible right. Hence this court is inclined to grant Mandatory bail to the Petitioners/Accused. In allowing the Petition, this Court considering the Hon’ble Supreme Court of India dictum laid down in **Criminal Appeal Nos.2814-2815/2024** in the case of **Frank Vitus Vs. Narcotics Control Bureau and others** wherein, it was held that, “While granting **bail to a foreigner** within the meaning of the Act, the concerned court shall issue direction to the State or Prosecuting Agency, as the case may be, to immediately communicate the order granting bail to the concerned Registration Officer appointed under Rule 3 of the Rules who, in turn, shall communicate the order to all concerned authorities including the civil authorities. If such information is furnished, it will enable the authorities under the Act, the Rules and the Order to take appropriate steps in accordance with the law.

In this case also the Petitioners/Accused are foreigners. Hence this court allows the Mandatory Bail petition with following conditions :-

1. The Petitioners/Accused shall execute a bond for Rs.10,000/- with two sureties for like sum.
2. The sureties shall produce a copy of Aadhaar card or Bank Passbook or Voter ID or Driving License or any recognised identity cards and they shall affix their photographs and thumb impression in the Bail Bond to ensure their identity to the satisfaction of this court.
3. The Petitioners/Accused shall not abscond and shall appear before the Respondent whenever required and before this court on all hearing dates subject to application under Sec.355 BNSS.
4. The Petitioners shall not influence, threaten or coerce the witnesses either during the investigation or trial. The Petitioner shall not commit an offence similar to the offence of which they are accused.
5. On breach of any of the aforesaid conditions or if the Petitioners/Accused thereafter abscond a fresh FIR can be registered under Sec.269 BNS.
6. The Petitioners shall obey in accordance with conditions of bond.
7. This court is hereby direct the Assistant Public Prosecutor to immediately communicate this order granting bail to the concerned Registration Officer appointed under Rule 3 of the Foreigners order, 1948 who, in turn, shall communicate the order to all concerned authorities including the civil authorities.

Directly dictated to Steno-Typist and typed by her, corrected and pronounced by me in open court on this 21st day of May 2026.

Judicial Magistrate No.II,
Ariyalur.