

BEFORE THE II ADDITIONAL DISTRICT AND SESSIONS COURT,
ARAKKONAM, RANIPET DISTRICT.

Present: Tmt.K.S.Jayamangalam, M.L.,
II Additional District and Sessions Judge,
Arakkonam.

Wednesday the 18th day of March 2026.

CrI.M.P.No.15/2026 in S.C.No.108/2025

1. Gajapathi varma

aged 50 years

S/o Balasubramaniyan

No.2/45F New Street,

Rendadi Village, Sholinghur.

2. Sankar aged 54 years

S/o Balasubramani

No.131 Kamarajar Nagar,

Rendadi Village, Sholinghur

...Petitioners/A4 & A5

/vs/

The State represented by

Inspector of Police,

Sholinghur P.S.

Cr.No.222/2025

...Respondent/Complainant

This petition is coming before me for hearing today in the presence of Thiru.K.Kannan & C.Vishnu Learned counsel for the Petitioners

and the Learned Additional Public Prosecutor for the respondent and considering that after hearing both sides, this court delivered the following:

ORDER

The petitioners are the accused A4 and A5 filed this petition under section 250 of BNSS Act 2023 to discharge the petitioners from the case in S.C.No.108/2025.

2. Brief of petition:-

(i) The respondent/police registered a case in Cr.No.222/2025 on 12.06.2025 initially for an alleged offence u/s 194(1) of BNS Act in connection with the death of one Chakaravarthy. Subsequently a final report has been filed on 10.09.2025 for the alleged offences u/s 61(2), 103(1) and 49 of BNS Act 2023 r/w Section 25(1AA) and 25(1A) of Arms Act. It is alleged by the prosecution that the accused A1 had caused the death of the deceased by shooting him with a firearm at about 10.50 P.M on 11.06.2025 while the deceased was riding his motorcycle on Arakkonam-Sholinghur Road. The final report arrayed five accused persons and the petitioners have been arrayed as A4 and A5. The entire allegation against the petitioners/A4 & A5 rests solely on an alleged conspiracy theory projected by the prosecution without any independent, cogent or legally admissible material lining the petitioners to the occurrence, the alleged arms, the scene of crime or the alleged assailants. The prosecution alleged that the motive for crime was retaliation for the murder of the petitioners' brother Seenu @ Krishnakumar who was murdered on 08.03.2025 in Cr.No.118/2025 and that on such premise the petitioners are alleged to have conspired with the other

accused to murder Tr.Chakaravathy, Advocate by profession that he had filed bail petitions on behalf of the accused in connection with the murder of Seenu @ Krishnakumar and secured bail orders for them. The petitioners are the brother of the deceased Seenu @ Krishnakumar there is absolutely no material in the final report or accompanying documents to establish any overt act, meeting of minds, communication, preparation, facilitation or participation by the petitioners in the alleged offence.

(ii) The prosecution story is highly fictitious and inherently improbable when tested on the touchstone of the conduct of a prudent man as contemplated under section 3 of the Indian Evidence Act. If the petitioners had indeed harboured any real grudge seeking retaliation for the murder of his younger brother, the natural and probable course of conduct would have been to act against the persons allegedly involved in the said murder and not against an Advocate who had merely represented the accused by filing bail petitions in the discharge of his professional duties. There is absolutely no material available on record to substantiate the alleged motive or to connect the petitioners with the commission of the offence on such premise. A bare perusal of the final report and connected documents would reveal that this narrative is inconsistent with the prosecution's own records and is deliberately introduced to prejudice the court and to secure conviction by false projection. The reliance placed by the prosecution on the so-called confession statement of Accused A1 is wholly misconceived as the same is inadmissible in law in so far as it seeks to implicate a co-accused and cannot form the basis for framing of charges against the petitioners. The statements recorded under section 180(3) of BNSS Act 2023 said to have been given by

the alleged witnesses do not disclose any incriminating material against the petitioners and in any event, the same do not satisfy the requirement of 'grave suspicion' necessary to put the petitioners on trial. If the entire prosecution material is taken at face value, without testing its veracity, the same does not disclose the essential ingredients of the alleged offences against the petitioner, nor does it raise a prima facie case warranting continuation of the proceedings against him.

(iii) The petitioners may discharge from the above case for the following grounds that a) the materials placed along with the final report, even if taken at their face value in entirety, do not disclose the essential ingredients of the offences alleged against the petitioners. There is no material showing any act, role, participation or facilitation by the petitioners in the alleged occurrence. In the absence of a prima-facie case, the petitioners are entitled to be discharged. b) The prosecution materials do not raise any grave suspicion against the petitioners which alone can justify framing of charges. At best, the allegations give rise to mere conjecture or remote suspicion, which is insufficient in law to compel the petitioners to undergo a full-fledged criminal trial. c) The petitioners have been arrayed as an accused solely on the ground that they are the brothers of a person who was murdered in an earlier case. Criminal liability cannot be fastened on the basis of relationship or association and such mechanical arrangement is contrary to settled principles of criminal jurisprudence. d) The alleged motive attributed to the petitioners is wholly speculative, unsupported by any independent evidence and inconsistent with the prosecution's own records. Motive in the absence of substantive material linking the accused to

the offence cannot form the basis for framing of charges. e) The final report does not attribute any overt act, preparatory act or post-occurrence conduct to the petitioners. There is no recovery, no forensic linkage, no electronic evidence and no eye witness account implicating the petitioners in the alleged crime. f) To attract the offence of conspiracy, there must be material showing a meeting of minds or an agreement to commit an illegal act. The prosecution has failed to produce any legally admissible material indicating any communication, co-ordination, or concert between the petitioners and the other accused. Mere allegations of conspiracy, without supporting evidence are insufficient. g) The prosecution's reliance on the confession statement of accused No.1 to implicate the petitioners are legally impermissible. A confession of a co-accused is not substantive evidence and cannot by itself be the foundation for framing charges against another/other accused. h) The statements recorded under section 180(3) of the BNSS Act 2023, relied upon by the prosecution, do not disclose any incriminating material against the petitioners. Even if accepted as true, the said statements do not satisfy the threshold required to proceed against the petitioners. i) The prosecution has deliberately projected a narrative that the deceased Advocate was murdered in connection with his professional duties with the sole intention of aggravating the perceived gravity of the offence and prejudicing judicial consideration. Such embellishment, unsupported by evidence vitiates the prosecution case at the threshold. j) Continuation of the criminal proceedings against the petitioners, despite absence of legally sustainable material would amount to abuse of the process of law and result in grave miscarriage of justice. Subjecting the petitioners to trial in such circumstances would be oppressive and unwarranted. k) It is respectfully

urged that at the stage of considering discharge, this Hon'ble court is required to sift the materials to determine whether sufficient grounds exist to proceed. When the prosecution case rests on assumptions, conjectures and inadmissible material, the discharge of the accused is necessary. L) In the absence of legally admissible evidence establishing the petitioners' involvement and in view of the fundamental principle that suspicion cannot take the place of proof, the petitioners are entitled to be discharged from the proceedings in the interest of justice. In these circumstances, unless the petitioners/A4 and A5 are discharged from the above proceedings they would be compelled to face a prolonged and unwarranted criminal trial despite the absence of any legally sustainable material against them, thereby causing them severe hardship and irreparable prejudice.

3. Counter filed by the prosecution:-

(i) The petition filed by the petitioners/A4 and A5 is wholly misconceived, pre-mature and devoid of legal merit. The petition is an attempt to short circuit a full-fledged criminal trial by inviting this court to undertake a roving enquiry into disputed facts, which is impermissible at the stage of discharge. The petitioners have misconstrued the scope of discharge proceedings by raising defences which can only be tested during trial by way of cross-examination and appreciation of evidence. Under section 250 of BNSS Act 2023, the jurisdiction of this court is strictly limited to determine whether the materials provided by the prosecution disclose a prima facie case or a 'grave and strong suspicion' against them. It is well settled that the court must not conduct a 'mini trial' by weighing the probative value of evidence or assessing witness credibility, rather if the materials indicate the

accused might have committed the offence, the case must proceed to trial. The prosecution case has established through F.I.R, witness statements and the final report reveals that a cold-blooded conspiracy rooted in retaliation. On 08.03.2025 the brother of A4 and A5 Seenu @ Krishnakumar was murdered in Cr.No.118/2025 and the deceased in the present case Advocate Chakaravarthy was targeted specifically because he represented the accused in that prior murder and secured their bail. This deep-seated grudge led A4 and A5 to conspire with A1 to A3 to eliminate the Advocate culminating in the fatal shooting on 11.06.2025 at 10.50 P.M on the Arakkonam-Sholinghur Road.

(ii) The investigation has uncovered distinct overt acts for each accused, refuting any claim of vague or omnibus allegations. A1 is identified as the principal assailant who used a country-made firearm to shoot the deceased in the head, while A2 and A3 actively participated by operating the get away vehicle and monitoring the victim's movements. A4 and A5 though not the physical shooters, acted as the intellectual authors and instigators of the crime, providing the logistical support and common intention necessary to execute the criminal design. The recovery of the prohibited firearm and the documented seizure Mahazars further substantiate the charges under Sections 25(1A) and 25(1AA) of Arms Act 1959. The contentions raised by the petitioners including allegation of false implication, lack of independent evidence and the supposed 'imaginary' nature of the motive are purely matters of fact that must be adjudicated during a full trial. At the discharge stage, the court must prioritize the existence of incriminating material over the defence's claims of innocence.

Given the gravity of the offenses involving unlawful assembly, illegal arms, and the murder of a legal professional, granting a discharge would not only prejudice the prosecution but also erode public confidence in the justice system. Therefore, as a prima facie case and grave suspicion are clearly established, the petition deserves to be dismissed.

(iii) It is a well-settled principle of criminal jurisprudence that where the materials placed before the court disclose a strong and grave suspicion against the accused, the prayer for discharge must necessarily be refused, as the court is not required to conduct a detailed or meticulous examination of the evidence at the stage of framing of charges. At this preliminary stage, the court is only expected to prima-facie assess whether the materials, if taken at their face value, indicate that the accused might have committed the alleged offences, and not whether the prosecution will ultimately succeed in securing a conviction after trial. In the present case, the prosecution materials amply satisfy these settled parameters, clearly disclosing grave suspicion against the accused and thereby warranting the framing of charges and continuation of the trial in accordance with law. The offences alleged in the present case are grave in nature and involve unlawful assembly, possession and use of illegal arms, criminal intimidation, and acts that pose a serious threat to public peace and order. Granting discharge to the accused at such a preliminary stage, despite the existence of cogent and consistent prosecution materials, would not only cause serious prejudice to the prosecution case but would also embolden unlawful elements and undermine the rule of law, thereby eroding public confidence in the criminal justice system. In conclusion, the prosecution materials, when taken at their face

value and accepted in their entirety, clearly disclose the existence of a prima-facie case and give rise to a grave suspicion against the accused. The discharge petition is thus a clear abuse of the process of law and deserves to be dismissed in limine, with a direction to proceed further in accordance with law by framing appropriate charges.

(iv) In the light of the above mentioned facts and circumstances and the settled legal position, this court may be pleased to dismiss the discharge petition filed by the petitioners/A4 and A5 in its entirety as it is devoid of merits and untenable in law. There are sufficient grounds and 'grave suspicion' to proceed against the petitioners for the offences u/s 61(2), 103(1) and 49 of BNS Act r/w 25(1A), 25(1AA) of Arms Act 1959 as the materials on record clearly establish their involvement in a pre-planned conspiracy. Hence, this court proceed further in accordance with law by framing appropriate charges against the accused for the grave offences disclosed in the final report.

4. **The point for consideration:-**

1) Whether the petition is to be allowed or not?

5. The petitioners are arrayed as A4 and A5 in the above S.C.No.108/2025 and filed this petition to discharge them from the afore mentioned case. The petitioners/A4 and A5 side argued that as per the final report it does not disclose the essential ingredients of the offences alleged against the petitioners/A4 and A5. There is no material showing any act, role, participation or facilitation by the petitioners/A4 and A5 in the alleged occurrence. The prosecution materials do not raise any grave suspicion

against the petitioners to frame the charges against them. The petitioners were arrayed as an accused solely based on the ground that they are the brothers of a person who was murdered in an earlier case. The alleged motive attributed to the petitioners is wholly speculative, unsupported by any independent evidence. The FIR does not attribute any overt act against the petitioners/A4 and A5. There is no eye-witness implicating the involvement of the petitioners in the alleged crime. The prosecution failed to produce any legally admissible material indicating any communication, coordination or concert between the petitioners. The petitioners were arrayed as accused based on the confession statement of A1 the prosecution has not made out any prima-facie case against the petitioners/A4 and A5 therefore the petitioners/A4 and A5 may be discharged from the above case.

6. By way of reply, the Learned Additional Public Prosecutor has argued that the present petition is wholly misconceived, pre-mature and devoid of merit therefore it is liable to be dismissed in limine. This is an attempt to short circuit a full-fledged criminal trial by inviting this court to undertake a roving enquiry into the disputed fact which is impermissible at the stage of discharge. The defence raised by the petitioners can only be tested during trial by way of cross-examination and appreciation of evidence therefore it is pre-mature to decide the contention of the petitioners. As per the FIR, witness statements and the final report reveals a cold-blooded conspiracy rooted in retaliation. The investigation has made specific overt acts against for each accused therefore the contentions raised by the petitioners that there is no specific allegations against the petitioners is totally misconceived. Therefore, the prosecution has already made a prima-

facie case and grave suspicion are clearly established hence the present petition deserves to be dismissed. It is well settled principle of criminal jurisprudence that where the materials placed before the court disclose a strong and grave suspicion against the accused the prayer for discharge must necessarily be refused as the court is not required to conduct a detailed or meticulous examination of evidence at the stage of framing of charges. The offences alleged in the present case are grave in nature and involved unlawful assembly, possession and use of illegal arms, criminal intimidation and acts that pose serious threat to public peace and order. Therefore, the discharge petition is a clear abuse of process of law and deserves to be dismissed in limine with a direction to proceed further in accordance with law. The deceased was a practicing Advocate therefore considering the same the present petition is liable to be dismissed.

7. After hearing the arguments of both sides, the petitioners are arrayed as A4 and A5 in the above case. The case of the prosecution is that the deceased Advocate Chakaravarthy was targeted specifically because he represented the accused in the prior murder and secured their bail. This deep seated grudge led A4 and A5 to conspire with A1, A2 and A3 to eliminate the Advocate culminating in the fatal shooting on 11.06.2025 at approximately at 10.50 PM on the Arakkonam to Sholinghur road. The prosecution has placed sufficient materials to proceed against the petitioners/A4 and A5. The petitioners A4 and A5 do not the physical shooters, acted as the intellectual authors and instigators of the crime, and the common intention necessary to execute the criminal design. The recovery of prohibited fire-arm and the documented Seizure Mahazar

substantiated the charges u/s 25(1A) and 25(1AA) of Arms act. While deciding the discharge petition the court must prioritize the existence of incriminating material over the defence claim of innocence. Therefore, the present petition deserves to be dismissed to allow the matter to proceed to its lawful conclusion. The respondent/prosecution side argued that there are sufficient materials available to proceed against the petitioners. The contention of the petitioners/A4 and A5 is that they were arrayed as accused based on the confession statement of A1. There is no eye-witness identified the petitioners/A4 and A5 and there is no incriminating evidence available against them. Therefore, the petitioners need not face the trial and they may be discharged from the above case. The Learned counsel for the petitioners/A4 and A5 have cited the following case laws in support of their contention.

1) In the Hon'ble High Court of Judicature at Madras

Crl.O.P.No.8975 of 2025 and Crl.M.P.No.5953 of 2025 dt: 26.03.2025

Vishnu Vijay /vs/ The Inspector of Police, Anamalai Police Station, Coimbatore in Cr.No.129/2019.

Para 24: Taken the view that confession by a co-accused containing incriminating matter against a person would not by itself suffice to frame charge against it. (Suresh Budharmal Kalani v.state of Maharashtra (1998) 7 SCC 337, the court has proceeded to take the view that only on the basis of the statement of the co-accused, no case is made out, even for framing a charge”.

8. This court has carefully gone through the complaint given by the deceased wife and the FIR and other documents appended along with the charge sheet. The prime stand taken by the petitioners/A4 and A5 is that they have not involved in the commission of offence and there is no material to connect the petitioners/A4 and A5 with the alleged crime. Based on the confession of the co-accused they were arrayed as accused in the present case. Absolutely there is no evidence available against the petitioners/A4 and A5 therefore, they are entitled for discharge. At this stage, the court cannot conduct a roving enquiry and the petitioners/A4 and A5 have stated that they have been arrayed as accused only based on the confession of co-accused of A1. The stand taken by the petitioners/A4 and A5 is totally wrong and the petitioners/A4 and A5 conspired with A1 to A3 to eliminate the Advocate culminating in the fatal shooting on 11.06.2025 while so at this stage it cannot be decided that there is no material available against them. On 08.03.2025 the brother of A4 and A5 namely Seenu @ Krishnakumar was murdered (Cr.No.118/2025) and the deceased in the present case, Advocate Chakravarthy was targeted because he represented the accused in that prior murder and secured their bail. Therefore, this deep seated grudge led A4 and A5 to commit the alleged crime against the deceased Advocate Chakravarthy. It is pre-mature to decide that there is no material available against the petitioners/A4 and A5. After conducting a full-fledged trial only the participation of the petitioners/A4 and A5 will be elucidated. At this stage, it cannot be decided that they have not actively participated in the commission of offence. The prosecution has laid the final report against the accused A1 to A3 along with the petitioners/A4 and A5 for the alleged offences u/s 61(2), 103(1), 49 of BNS Act and Sec.25(1), 25(1AA) of Arms

Act. The deceased was a practicing Advocate and in order to take vengeance against him he was said to have been murdered by the accused therefore, if the present petition is allowed the respondent/prosecution will be put to great loss and hardship and accordingly the present petition is liable to be dismissed.

In the result, this petition is dismissed.

Dictated by me to the Steno-Typist, typed by her directly to my dictation in computer and print taken out and corrected and pronounced by me in open court, this the 18th day of March 2026.

II Additional District & Sessions Judge,
Arakkonam.