

IN THE COURT OF THE JUDICIAL MAGISTRATE.NO.II, SANKARI

Present : Thiru. D. Sivakumar, B.Sc., M.I.B., L.L.B., P.G.D.C.A.,
Judicial Magistrate.No.II, Sankari.

Saturday the 06th day of June 2026

Crl.M.P.No. 162/2026

in

Cr.No. 158/2026 of Magudanchavadi Police Station

1. Senthil kumar (aged about 40 years),
S/o. Madhesh,
MGR nagar, Ernapuram village,
Magudanchavadi, Sankari taluk,
Salem.

... Petitioner / Accused no.1

2. Prabhakaran (aged about 36 years),
S/o. Madhesh,
MGR nagar, Ernapuram village,
Magudanchavadi, Sankari taluk,
Salem.

... Petitioner / Accused no.2

...Vs...

State of Tamil Nadu Rep. by,
The Sub Inspector of Police,
Magudanchavadi Police Station.
Cr.No.158/2026

..Respondent / Complainant

ORDER

1) The petitioners / accused no.1 and 2 have filed this bail application under section 480 of B.N.S.S for the alleged offences U/s.296(b), 115(2), 118(1), 351(3) of B.N.S. The learned Counsel appearing for the petitioners / accused no.1 and 2 has stated that, the accused no.1 and 2 have not committed the offence and they will not abscond. If the accused no.1 and 2 are enlarged on bail they are ready and willing to abide by any condition imposed by this Court. Hence, the present petition for bail.

2) The Respondent / Police, had filed their objections stating that, the Defacto complainant was discharged from hospital. If bail petition is allowed, that the Petitioners/ accused no.1 and 2 may commit similar kind of offences and they may threatening the witnesses. Hence, the Respondent / Police Strongly objected to enlarge the petitioners / accused no.1 and 2 on bail.

3) Heard through video conferencing. Records perused. On perusal of records, it is learnt that, the petitioners / accused no.1 and 2 are remanded to judicial custody on 02.06.2026 for the alleged offences U/s.296(b), 115(2), 118(1), 351(3) of B.N.S. The accused no.1 and 2 are being in custody for the past 05 days. It is pertinent to state that the investigation of the case has not been completed and the Respondent / Police has not filed any application to take the custody of the accused no.1 and 2 for investigation purpose.

4) The Petitioners / Accused no.1 and 2 are allegedly implicated in the above case for alleged offence of uttering obscene words in public, voluntarily causing hurt using dangerous weapons and criminal intimidation. It is pertinent to state that in the above case the Respondent / Police has not served notice U/s. 35 (3) of B.N.S.S on the Petitioner / Accused no.1 and 2 seeking them to appear before them for investigation. Hence, the provision of Section 35 (3) of B.N.S.S has not been followed by the Respondent / Police.

5) In the above case charge sheet has not been filed. An accused is presumed to be innocent in a criminal proceedings until it is proved that he is guilty of the offence, thus no presumption can be drawn in the above case, at this stage that the accused has committed the alleged offence. The Respondent/Police has not stated that whether any other criminal cases are pending against the accused no.1 and 2. Hence, it is inferred that the

petitioners/ accused no.1 and 2 does not have bad antecedent.

6) The Petitioners / Accused no.1 and 2 have been temporarily deprived of their right to liberty, and for the fact that they are in Judicial Custody for the past 05 days. The Hon'ble Supreme Court of India in the State of Rajasthan, Jaipur - Vs - Balchand @ Baliay, by its order dated 20.09.1977, reported in 1977 AIR 2447, as held that, "The basic rule is bail, not jail,...". While considering the Right to life and personal liberty of the Defacto Complainant, the Right to life and personal liberty of the accused is also need to be considered and weighed.

7) This Court is of the view that the Petitioners / Accused no.1 and 2 can be enlarged on bail, by imposing certain conditions to secure their attendance before the Investigating agency whenever their attendance may be required for any investigation. This Court is of the view that the Respondent / Police, will not be put to any hardship, since conditions will be imposed on the Petitioners / Accused no.1 and 2 which would safeguard the Investigation process by restraining the Petitioners / Accused no.1 and 2 in anyway interfering or tampering with the evidence or inducing, threatening any witness or from absconding.

Hence, this Court on considering of the above facts, nature and gravity of offence, grants conditional bail to the Petitioners /Accused no.1 and 2.

Conditions:

1. The Petitioners / Accused no.1 and 2 shall execute a bond for a sum of Rs. 10,000/- (Rupees Ten Thousand Only) with two sureties for a like sum for their release.

2. The Petitioners / Accused no.1 and 2 shall appear and sign before the Respondent / Police Station, Magudanchavadi, daily Morning at 10.00 A.M, for the period of 30 days, from the date of their release.
3. The Petitioners / Accused no.1 and 2 shall also make themselves available before the Respondent / Police, as and when required for investigation.
4. The Petitioners / Accused no.1 and 2 shall not tamper with the witnesses or make inducement directly or indirectly threat or promise to any person or witness acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to Respondent / Police, Magudanchavadi or in any manner interfere with or put obstacle to the smooth progress of investigation and shall appear before the Court whenever required or directed by this Court.

Directly dictated to the typist, corrected and pronounced by me in the Open Court, this 06th day of June 2026.

Judicial Magistrate No.II,
Sankari.

Copy to:

The Superintendent,
Sub Jail, Sankari. **(Through E-mail)**

Order uploaded online on : 06.06.2026.