

IN THE COURT OF THE PRINCIPAL SESSIONS JUDGE, THANJAVUR.

PRESENT: Thiru.P.Velmurugan, B.A.,B.L.,  
Principal Sessions Judge, Thanjavur  
Friday the 13th day of March, 2026  
Criminal Miscellaneous Petition No.1629/2026  
{CNR No: TNTJ01-0020752026}

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1. Senthilkumar, S/o.Somasundharam
2. Kavitha, W/o.Senthilkumar
3. Sujatha, W/o. Manikandan

....Petitioners/ Accused

/ versus /

State of Tamil Nadu represented by Inspector of Police  
Thanjavur DCB Police Station,  
Cr.No.36/2025

...Respondent/Complainant

This petition coming on this day before me for hearing in the presence of Thiru.S.Ramasundar, Learned Advocate appearing for the petitioner and Thiru.E.Hariharan, Learned Advocate appearing for the intervenor and the Learned Public Prosecutor Thiru.S.Sathiamoorthy, on behalf of the complainant and this court passed the following,

#### ORDER

This e-petition is filed by the petitioners u/s 482 of Bharatiya Nagarik Suraksha Sanhita (BNSS) - 2023, praying for anticipatory bail.

Notice was issued. Reply was filed by the prosecution.

The Learned Counsel for the petitioners submits that the petitioners / A5, A11 & A12 are being charged for offences u/s 406, 409, 420, 465, 467, 468, 470, 471 and 120(B) of IPC in Cr.No.36/2025 of District Crime Branch, Thanjavur Police Station and they have not committed any offences as alleged and they have been falsely implicated in a motivated and highly belated FIR registered in 2025 with an inordinate delay of 7 - 8 years, regarding the property transactions, took place between the years 2017 and 2022 and the dispute arises out of conveyance of properties by executing sale deeds through power of attorney in front of the competent authority i.e. Sub-Registrar, where the defacto complainant herself personally appeared on numerous occasions and executed more than 300 registered documents acknowledging the receipt of consideration and therefore, the allegations of forgery and ignorance are contrary to official records and inherently improbable.

The Learned Counsel appearing for the petitioners further submitted that the de-facto complainant executed the power of attorney in favour of the 1<sup>st</sup> accused in the year 2017 and the

petitioners herein are subsequent purchasers and he further submitted that the de-facto complainant has lodged an earlier complaint in the year 2022, the said earlier complaint was closed after police enquiry as civil nature and there was no element of criminal offence, and again the de-facto complainant executed a power of attorney in favour of the 1<sup>st</sup> accused in the year 2023 and thereafter, the de-facto complainant lodged this complaint with same set of facts by suppressing the earlier complaint and pendency of 18 civil cases between the parties. He further submits that in order to save the period of limitation and also to give criminal colour to the civil dispute, the de-facto complainant belatedly filed this false case against the petitioners and others. He further submits that the petitioners have no previous cases and they are permanent residents, and hence, he seeks anticipatory bail for the petitioners.

On the side of the petitioners, the photocopy of the newspaper publication about the complaint, photocopy of summon u/s 179 and 94 of BNSS, photocopy of representation of the petitioner dated 29.09.2024 and photocopy of representation of the petitioner dated 31.12.2024.

In support of his submission, the Learned Counsel appearing for the petitioners relied upon the following judgments.

- i) Ramesh Kumar Vs. State of Punjab (2015) 9 SCC 706 ( Unexplained delay in lodging FIR creates serious doubt about the genuineness of the complaint)
- ii) Vesa Holdings Pvt. Ltd., Vs. State of Kerala (2015) 8 SCC 293 (Civil disputes relating to property cannot be converted into criminal proceedings merely to exert pressure)
- iii) Indian Oil Corporation Vs. NEPS India Ltd., (2006) 6 SCC 736 (Criminal Law cannot be used as a shortcut for settling civil disputes)
- iv) State of Rajasthan Vs. Balchand (1977) 4 SCC 308 (Bail is the rule and jail is the exception)
- v) Sanjay Chandra Vs. CBI (2012) 1 SCC 40 - (Detention during trial should be avoided unless absolutely necessary.)
- vi) Arneshkumar Vs. State of Bihar (2014) 8 SCC 273 - (Unnecessary arrests should be avoided where investigation can proceed without custody)
- vii) P.Chidambaram Vs. Directorate of Enforcement (2019)9 SCC 24 – When the case is based on documentary evidence custodial interrogation may not be necessary)

The Learned Counsel appearing for the intervenor / de-facto complainant contended that the defacto complainant is 76 years old widow, and after her husband's death in 2015, the accused persons projected themselves as close associates of the de-facto complainant's husband,

assured the de-facto complainant that they would help to secure the estate for de-facto complainant's welfare and they gradually obtained her signatures on various documents on the pretext of 'mutation', 'formalities' and 'protection the estate'. It is alleged that the accused fabricated and registered multiple Power of Attorney documents through impersonation and forged signatures, and thereafter executed fraudulent sale deeds in favour of their associates and relatives, thereby illegally dealing with several immovable properties belonging to the de-facto complainant. He further submits that the fake life certificates and supporting documents were created, sale consideration was misappropriated through unauthorised bank accounts, and properties under existing lease arrangements were also illegally sold. He further submits that forged Hiba documents and manipulated sale deeds were used to deprive her and her children of their lawful share in the properties. He further submits that the accused persons trespassed into her residence, took away the original property documents, valuables, vehicles and other assets, and threatened her with dire consequences, due to which, she could not immediately take any action. He further submits that this complaint was already lodged before the Consulate General of India in Singapore and the same was formally forwarded to the authorities in India. He further submits that if the accused are granted anticipatory bail, they will flee the country or go into hiding and hence, opposed to grant anticipatory bail in favour of the petitioners.

The Learned Public Prosecutor submits that the de-facto complainant is residing in Singapore and after the death of her husband, the accused persons obtained the signature of the de-facto complainant in the power deeds without expressing the contentions and by creating fake life certificates and documents, conveyed the properties in their names and executed sale deeds to the subsequent purchasers. He further submits that if the petitioners are granted anticipatory bail, they would abscond and hence, he opposed to grant anticipatory bail in favour of the petitioners.

Rival submissions are taken into consideration. Perused the records. The petitioners and others are said to have cheated the de-facto complainant by creating fake life certificates and power deeds and made subsequent sale deeds in respect of the properties of the de-facto complainant. The Learned Counsel appearing for the petitioners contended that the de-facto complainant lodged the complaint belatedly with an intention to give criminal colour to a civil dispute by suppressing the earlier criminal complaint and eighteen civil cases are pending between the parties and therefore, the de-facto complainant has not approached the court with clean hands. It seems that 18 earlier civil suits are said to be pending between the parties. On perusal of the FIR, there is no recital shows the earlier

litigations pending between the parties and the disposal of the earlier complaint lodged by the de-facto complainant. However, it appears from the complaint that the husband of the de-facto complainant was died on 26.07.2025 at Kumaran Hospital, Chennai and thereafter, she was emotionally devastated and living alone in India and being unfamiliar with legal processes and aged, she trusted persons who pretended to be well-wishers. But, on perusal of the FIR, the de-facto complainant used the legal terminologies, such as, “All of them projected themselves as close associates of my husband, stated that they had helped in in managing his estate, and assured me that they would help secure the estate for my welfare and that of my children.”, “They repeatedly made me sign various Power of Attorney documents, vakalatnamas and papers on the pretext of ‘mutation’, ‘formalities’ and ‘protecting the estate’”, “they had systematically isolated me from my family, taken control over all my documents and signatures, and conspired to defraud me.” and “my son and daughter are entitled to shares in this property and to deprive them of their lawful shares and taken the property through me, the accused fabricated this forged Hiba and manipulated me into executing the sale deed”. Therefore, it appears that this complaint was drafted by well-trained legal brain and not by the de-facto complainant.

Apart from that, the de-facto complainant stated in the complaint that she signed everything whatever the documents placed before her and she had handed over the several original documents. But, the above statement of the de-facto complainant itself is self-contractory to the contention of the de-facto complainant that the documents were forged and created by the accused persons. Further, she had stated in her complaint that she had culled out the irregulararities, she had not stated that she culled out the offences committed by the accused persons, which is also self-contradictory.

Further, considering the submissions of both sides and on careful reading of the complaint as well as averments made in the petition as well as in the objections filed by the Public Prosecutor and the intervenor, there are 18 previous civil cases are pending between the parties, even though the name of the parties, pleadings, prayers and the defence taken in the respective written statements have not been produced to show that the de-facto complainant has been cited as party in the suits. Under facts and circumstances, she ought to have furnished the above details of the pending civil cases in this complaint. Under the

above facts and circumstances, this court followed the precedent laid down in the judgement delivered in **K.D.Sharma vs Steel Authorities Of India Ltd.& Ors - CIVIL APPEAL NO. 4270 OF 2008 on 9 July, 2008**, wherein, our Hon'ble Supreme Court of India held as follows:

23. *The learned counsel for SAIL is also right in urging that the appellant has not approached the Court with clean hands by disclosing all facts. An impression is sought to be created as if no notice was ever given to him nor he was informed about the consideration of cases of eligible and qualified bidders in pursuance of the order passed by the High Court in Review and confirmed by this Court. The true facts, however, were just contrary to what was sought to be placed before the Court. A notice was issued by SAIL to the appellant, he received the notice, intimated in writing to SAIL that he had authorized Ramesh of Rithwick Projects to appear on his behalf. Ramesh duly appeared at the time of consideration of bids, bid of respondent No.2 was found to be lowest and was accepted and contract was given to him (under tender notice No.4). The said contract had nothing to do with tender notice No.5 and contract thereunder which had been given to the appellant herein and he had completed the work. Thus, it is clear that the appellant had not placed all the facts before the Court clearly, candidly and frankly.*

24. *The jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary. Prerogative writs mentioned therein are issued for doing substantial justice. It is, therefore, of utmost necessity that the petitioner approaching the Writ Court must come with clean hands, put forward all the facts before the Court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the Court, his petition may be dismissed at the threshold without considering the merits of the claim.*

It is evident from the above decision that a litigant approaching the court must come with clean hands and disclose all material facts. But on perusal of the

complaint, the de-facto complainant had not stated about the earlier litigations between the parties.

Apart from that, the de-facto complainant ought to have produced the details of the earlier complaint filed by her in the Vallam Police Station and the closure of the said case after enquiry as civil nature. Under the above facts and circumstances, this court followed the precedent laid down in the judgement reported in **2024 INSC 834 - Subrata Chourdhury @ Santosh Choudhury v. State of Assam**, wherein the Hon'ble High Court as categorically held as follows:

*;15. Almost similar questions came up for consideration before this Court in [Pramatha Nath Talukdar v. Saroj Ranjan Sarkar](#). The majority judgment in [Pramatha Nath](#) was delivered by Kapur, J. His Lordship held that an order of dismissal under [Section 203](#) of the Criminal Procedure Code (for short "the Code") is, however, no bar to the entertainment of a second complaint on the same facts but it can be entertained only in exceptional circumstances. This Court explained the exceptional circumstances as:*

- (a) where the previous order was passed on incomplete record, or*
- (b) on a misunderstanding of the nature of the complaint, or*
- (c) the order which was passed was manifestly absurd, unjust or foolish, or*
- (d) where new facts which could not, with reasonable diligence, have been brought on the record in the previous proceedings.*

.....

*27. Now, we will have to proceed with the appeal bearing in mind the exposition of law in [Samta Naidu's case \(supra\)](#) that if earlier disposal of the complaint was on merits and in a manner known to law, the second complaint on 'almost identical facts' which were raised in the first complaint would not be maintainable. "If the core of both the complaints is same, the second complaint ought not to be entertained," it was further held therein.*

In view of the above decision, it is evident that the second complaint can be entertained only in exceptional circumstances. On perusal of the FIR, no exceptional circumstance was stated by the de-facto complainant in her complaint and further she suppressed the filing and disposal of the earlier complaint. The non-disclosure of material facts of the previous complaint, which was closed as

civil nature as well as the suppressing of earlier eighteen civil suits, reveals the clandestine move of the de-facto complainant by filing this false complaint after eight years as pointed out by the Learned Counsel of the petitioners.

Further, the Learned Counsel for the petitioners argued that the de-facto complainant camouflaged the civil dispute into criminal case belatedly by filing this false complaint. Under the above facts, this court followed the precedent laid down in the judgement reported in **2025 INSC 917 - S. N. VIJAYALAKSHMI & ORS. Vs. STATE OF KARNATAKA & ANR**, wherein it is held as follows:

*42. Coming to the second question i.e., whether civil and criminal proceedings both can be maintained on the very same set of allegations qua the same person(s), the answer stricto sensu, is that there is no bar to simultaneous civil and criminal proceedings. If the element of criminality is there, a civil case can co-exist with a criminal case on the same facts. The fact that a civil remedy has already been availed of by a complainant, ipso facto, is not sufficient ground to quash an FIR, as pointed out, inter alia, in P Swaroopa Rani v M Hari Narayana, (2008) 5 SCC 765 and Syed Aksari Hadi Ali Augustine Imam v State (Delhi Admn.), (2009) 5 SCC 528. The obvious caveat being that the allegations, even if having a civil flavour to them, must prima facie disclose an overwhelming element of criminality. In the absence of the element of criminality, if both civil and criminal cases are allowed to continue, it will definitely amount to abuse of the process of the Court, which the Courts have always tried to prevent by putting a stop to any such criminal proceeding, where civil proceedings have already been instituted with regard to the same issue, and the element of criminality is absent. If such element is absent, the prosecution in question would have to be quashed. In this connection, Paramjeet Batra v State of Uttarakhand, (2013) 11 SCC 673 can be referred to:*

*'12. ... Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal*

*proceedings to prevent abuse of process of the court.’(emphasis supplied)*

43. *In Usha Chakraborty v State of West Bengal, (2023) 15 SCC 135, while quashing the FIR therein and further proceedings based thereon, it was observed ‘...the factual position thus would reveal that the genesis as also the purpose of criminal proceedings are nothing but the aforesaid incident and further that the dispute involved is essentially of civil nature.’*

In view of the above decision, it is evident that the criminal law cannot be used to settle the civil disputes. The principles laid down in the above decisions are squarely applicable to this case.

In view of the above discussion, there are 18 civil cases are pending between the parties and further, the de-facto complainant lodged the complaint by suppressing the earlier 18 civil suits and disposal of the earlier complaint given by her. By considering the above aspects, other facts and circumstances of the case and the reasons stated therein, this court is of the view that the petitioners can be granted anticipatory bail.

In the result, this Anticipatory Bail Petition is allowed with the following conditions:-

- 1) In the event of arrest or on their appearance before the Jurisdictional Magistrate, the petitioners are ordered to be enlarged on bail on their executing a bond each for a sum of Rs.10,000/- with two sureties for a like sum each to the satisfaction of the Jurisdictional Magistrate,
- 2) The petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and also submit a copy of their Aadhaar Card or any other identity card issued by the Government in proof of their identity,
- 3) The petitioners shall appear and sign before the respondent daily at 10.30 a.m. for a period of 30 days (including holidays) from the next day of execution of bond before the Jurisdictional Magistrate, without fail and thereafter, as and when required for interrogation,.
- 4) The petitioners shall surrender before the Jurisdictional Magistrate within 30 days from the date of this order, failing which, this anticipatory bail order shall stand cancelled automatically without any further reference to this court.

- 5) The petitioners shall comply with the conditions stipulated u/s 482 of Bharatiya Nagarik Suraksha Sanhita (BNSS) - 2023, scrupulously,
- 6) On breach of any of the above said conditions, the Jurisdictional Magistrate is entitled to take appropriate action against the petitioners in accordance with law as laid down by the Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala reported inn (2005) AIR SC W 5560
- 7) If the petitioners accused thereafter abscond, a fresh FIR can be registered under section 269 of BNS and
- 8) The Station House Officer of respondent P.S. is directed to send a compliance report to this court with regard to reporting condition by the petitioners.

Pronounced by me in Open Court, this the 13th day of March, 2026.

Principal Sessions Judge,  
Thanjavur.

Copy to:  
The Judicial Magistrate No.II, Thanjavur  
The Inspector of Police, Thanjavur DCB P.S.  
The Counsel for the petitioners.