

**IN THE COURT OF THE I ADDITIONAL DISTRICT AND SESSIONS
JUDGE, VELLORE, VELLORE DISTRICT.**

**PRESENT: Tmt. G.Santhi,
I Additional District and Sessions Judge,
Vellore.**

Monday, the 23rd day of March 2026

CrI.M.P.No.701/2026 IN SC.No.138/2017

C. Martin Premraj S/o.Charles David ... Petitioner / Accused

Vs.

State represented by CBCID,
Crime Branch Vellore.

... Respondent/Complainant.

Petition: Petition U/s.94 of BNSS

This petition coming before me for final hearing in the presence of Thiru.R.Sampathkumar, Learned Counsel for the Petitioner/Accused, Thiru.S.Sivaprakasam, the Additional Public Prosecutor for the Respondent/Complainant and after hearing the arguments of both sides and Written submissions filed by the petitioner, this Court delivered the following:-

ORDER

This petition has been filed under Section 94 of BNSS seeking production of certain documents.

2. The averments made in the Petition, in brief, are as follows:

i. The petitioner submits that he is facing trial before this Court for the alleged offences under Sections 147, 323, 342, 204(2) r/w IPC and that the case is now posted for arguments. He further submits that a case in Crime No.208/2015 was registered at Ambur Town Police Station on 27.06.2015, and at the relevant time, he was working as the Investigation Officer along with others.

ii. The petitioner states that certain documents are necessary for the purpose of his defence, namely:

(i) the Government Order relating to the constitution of the Special Team in Crime No.208/2015, and

(ii) the relieving order of one C. Martin Premraj (A1).

According to the petitioner, these documents are essential for a just decision of the case. Hence, he has filed this petition under Section 94 of BNSS seeking direction to produce the said documents.

3. The averments made in the Counter filed by the Prosecution, in brief, are as follows:

i. The prosecution submits that the petition filed by A1 under Section 94 BNSS is not maintainable at this stage, as the trial has already been

completed and the case is posted for arguments. It is further submitted that the claim of A1 that he was an Investigating Officer in Crime No.208/2015 is false and contrary to official records, which show that another officer alone conducted the investigation.

ii. It is contended that A1 had sufficient opportunity during trial to produce documents and summon records but failed to do so, and the present petition is only an afterthought to fill up lacuna, create an artificial defence, and delay the proceedings. The documents sought, namely the Special Team Government Order and relieving order, are not part of prosecution records, were never relied upon, and are not relevant to the charges relating to custodial detention and death.

iii. It is further submitted that permitting such a petition at the argument stage would reopen the trial, cause prejudice to the prosecution, and defeat the direction for expeditious disposal. Hence, the petition is liable to be dismissed as devoid of merits and an abuse of process of Court.

iv. The learned counsel for accused A1 submitted that the present petition has been filed to summon the Government Order relating to the Special Team in Crime No.208/2015 and his relieving order, which are essential to establish that he was on official duty during the relevant period. According to him, the necessity to produce these documents arose only after

the prosecution raised issues in its written arguments, particularly regarding sanction, and therefore the petition cannot be termed as belated.

v. It is further submitted that the powers under Section 94 BNSS are wide and can be exercised at any stage if the documents are necessary for a just decision of the case. The petitioner contends that the said documents are primary evidence to prove his defence that he was not present at the place of occurrence, and hence directly go to the root of the prosecution case. Therefore, they are relevant and cannot be dismissed as an attempt to fill lacuna.

vi. The petitioner also submits that such official records are not within his personal possession and can only be produced through Court. Denial of the same would seriously prejudice his defence and affect his right to a fair trial. Hence, he prays that the documents be summoned in the interest of justice.

4. Both side heard. Records perused.

5. Point for Determination:

Whether the petition is maintainable and the documents sought are necessary for deciding the case?

6. **The Prosecution case in brief** is that the deceased Shameel Basha, son of Shajahan, was allegedly in a close relationship with one Pavithra, wife of

Palani. Due to a family dispute, the said Pavithra went missing from her house on 24.05.2015. Based on the complaint given by her husband Palani, a case in Crime No.140 of 2015 for “Woman Missing” was registered on 26.05.2015 at Pallikonda Police Station by the Sub-Inspector of Police, Ravi. On 27.05.2015, Pavithra’s mother received a phone call from an unknown person stating that Pavithra had come and would be sent back home by train. As no effective steps were taken by the police to trace her, Palani filed a Habeas Corpus Petition before the Hon’ble High Court, Madras.

During the course of enquiry, the mobile numbers from which the call was made were traced to the deceased Shameel Basha. He was produced before the police on 16.06.2015 for enquiry. He stated that while he was working at Erode, Pavithra came to meet him on 26.05.2015, stayed in a rented house for one day, and thereafter he sent her back by train on 27.05.2015 and informed the same to her mother. However, suspecting his involvement, the police did not accept his explanation and kept him in custody at Pallikonda Police Station on the night of 16.06.2015.

It is the further case of the prosecution that, on 17.06.2015 and 18.06.2015, the Inspector of Police, Martin Premraj, along with other police personnel, took Shameel Basha to the Pallikonda Police Quarters and kept him in illegal custody. During such custody, he was subjected to severe

physical torture by using third-degree methods, including beating with a cane and tying his hands behind his back with rope and inflicting pain through a pulley method, in order to extract information regarding the whereabouts of Pavithra.

On 19.06.2015, Shameel Basha was brought back to the police station and was made to execute an “Aajar Muchalika” as if he was released in good health condition. However, due to the injuries sustained, he was unable to walk properly or lift his hands, and hence affixed his left thumb impression. Thereafter, his father-in-law took him to the Government Hospital, Ambur, where he was admitted as an inpatient with visible injuries. Subsequently, he was referred to the Government Medical College Hospital, Vellore, and later to the Rajiv Gandhi Government General Hospital, Chennai, for further treatment for serious injuries including brachial plexus damage.

Despite treatment, Shameel Basha succumbed to his injuries on 26.06.2015 at the Rajiv Gandhi Government General Hospital, Chennai. Following his death, a case in Crime No.158 of 2015 under Section 176 Cr.P.C. was registered on 27.06.2015. A judicial inquiry was ordered by the Chief Judicial Magistrate, Vellore, and postmortem was conducted by a team of doctors. The prosecution alleges that the death of Shameel Basha was the direct result of custodial torture inflicted by the police officials during his

illegal detention.

Point :

7. This Court has given careful consideration to the submissions made by the learned counsel appearing on either side and also perused the entire materials available on record.

8. The petition has been filed under Section 94 of BNSS seeking production of two documents, namely (i) the Government Order relating to the constitution of the Special Team in Crime No.208/2015, and (ii) the relieving order of A1. It is not in dispute that the case has already reached the stage of final arguments.

9. The primary objection of the prosecution is that the petition is not maintainable at this stage and that it is filed belatedly after completion of trial. It is true that ordinarily, parties are expected to adduce all evidence during the trial stage and not at the stage of arguments.

10. However, it is equally well settled that the powers of the Court under Section 94 BNSS are wide in nature and can be exercised at any stage of the proceedings, if the Court is satisfied that such documents are necessary for a just decision of the case.

11. Therefore, the crucial question that arises for consideration is not merely the stage at which the petition is filed, but whether the documents

sought to be summoned are relevant and necessary for effectively adjudicating the issues involved.

12. The defence of A1, as put forth in the present petition, is that he was acting in an official capacity and was not present at the place of occurrence during the relevant period. In order to substantiate the same, he seeks production of the Government Order constituting the Special Team and his relieving order. These documents, being official in nature, may have a bearing on the role, duty status, and presence of A1 during the relevant period.

13. The contention of the prosecution that the said documents are not part of the prosecution records or were not relied upon during trial cannot, by itself, be a ground to reject the petition. The right of the accused to defend himself includes the right to seek production of documents which may support his defence, even if such documents are not relied upon by the prosecution.

14. It is also significant to note that the documents sought are public/official records, which are not in the personal custody of the petitioner. Hence, the petitioner cannot be expected to produce them without the assistance of the Court. In such circumstances, denial of the request may result in prejudice to the defence.

15. The argument of the prosecution that the petition is an attempt to fill up lacuna or delay the proceedings has been considered. However, mere delay or the stage of filing cannot outweigh the requirement of ensuring a fair trial. The criminal justice system mandates that every accused must be given a reasonable opportunity to place his defence before the Court.

16. At the same time, this Court is conscious that the proceedings should not be unnecessarily prolonged. However, calling for limited official records, as sought in the present petition, would not cause serious prejudice to the prosecution, nor would it amount to reopening the entire trial. The evidentiary value and relevance of such documents can be assessed at the time of final appreciation of evidence.

17. This Court is not, at this stage, expressing any opinion on the genuineness, admissibility, or probative value of the documents sought. The same shall be considered independently at the time of final disposal of the case.

18. In view of the above discussion, this Court is of the considered opinion that the documents sought by the petitioner may have a bearing on his defence and are necessary for a just and proper adjudication of the case. Accordingly, this Court holds that the petition deserves to be allowed and the documents are to be called for.

In the result, this petition is allowed. The concerned authority is directed to produce:

(i) the Government Order relating to the constitution of the Special Team in Crime No.208/2015; and

(ii) the relieving order of A1,

within 3 days from the date of receipt of this order.

Dictated to the Steno-Typist directly and typed by her in computer, corrected and pronounced by me in open court, on this the 23rd day of March 2026.

I Additional District and Sessions Judge,
Vellore.