

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

**Present: Selvi. B. Jayaprada, B.B.A., L.L.B(Hons)
Judicial Magistrate(Additional Mahila Court), Ariyalur.
Judicial Magistrate No.II, Ariyalur (FAC)**

Friday the 28th day of August 2026

CrI.M.P. No.862/2026 in Cr. No.110/2026

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

CNR No. TNAL040020152026

Elumalai, Age 34/2026,
S/o. Mahadevan,
Door No.430, Saralapatti,
Iluppur Taluk,
Pudhukkottai District

- Petitioner/ 3rd Party

Vs.

State of Tamil Nadu represented by:
Inspector of Police,
Keelapalur Police Station,
Cr.No.110/2026

- Respondent/Complainant.

1. Balachandru (A1)
2. Barathvaj (A2)

- Accused

This petition came up before me on 28.08.2026 for final hearing in the presence of Mr.L. Balu, B.A., B.L., Advocate for the Petitioner and the learned Assistant Public Prosecutor Gr-II (Prosecuting agency) for the Respondent and having heard both side arguments and after perusing all material documents on record, this court inclined to deliver the following :

Order

The present Petition has been filed under sec.497 and 503 of BNSS praying for an order to direct the 1st Respondent to produce the amount of Rs.28,000/- (Property) to this court and thereafter grant interim custody of the property to the Petitioner.

1. Brief averments of the Petition :-

The Petitioner herein is the 3rd Party in crime No.110/2026 on the file of the Respondent police. The Petitioner avers that he is engaged in the business of buying and selling goats. Every week, the Petitioner used to buy and sell goats at Sunday morning goat market held in Ariyalur. Under these circumstances, on 05.04.2026, in the morning, two unknown individuals (but can be identified when shown) came to sell two breed sheep. They asked the Petitioner to take the goats. Petitioner negotiated to pay Rs.15000/- each for both goats and paid Rs.28,000/- for the two goats, consisting of Rs.10,000/- in cash and Rs.18,000/- via G-Pay from the petitioner mobile phone. They accepted the money, handed over the two goats to the Petitioner and left. A short while later, two persons arrived and claimed that the goats the Petitioner had purchased belonged to them. One of the two persons identified himself as Saivadurai(Defacto complainant). He stated that the two goats they had tied up in their shed had been stolen by someone, and they had come searching for them. They claimed that both goats belonged to them and asked the petitioner to come with the goats to the Keelapalur Police station, handed over the goats to the police, narrated the incident and requested to recover Petitioner's money of Rs.28,000/- from the accused.

Accordingly, the Respondent Police arrested the accused A1, A2 and recovered the sum of Rs.28,000/- paid by the Petitioner from their possession. The Petitioner is the rightful owner of the said money. Thereafter the Respondent/complainant registered FIR in crime No.110/2026, U/sec.303(2) BNS against the accused. The Petitioner also undertakes to produce the property as and when required by the court and abide by the conditions that this court may impose for granting interim custody of the property. Hence the petitioner prays for allowing the petition.

2. Reply of the Prosecution

In their reply to the Petition the Respondent state that Investigation is pending. If the property is returned to the petitioner, he will spend the money for his use and alter the money. And the Petitioner did not produce the case property before this court whenever required. For the aforesaid reasons the prosecution prays for dismissal of the petition.

3. Discussion and Decision.

3.1. Perused the records and heard both sides. The Petitioner herein is 3rd party in Crime No.110/2026. The property is alleged to be seized from Accused. The above said property was produced before this court by the Respondent Police and received by this court as case property in R.P.No.164/2026. The Prosecution has not raised any doubts as to the ownership. Further the complaint has been lodged by the Respondent regarding the alleged incident promptly for all these reasons the prima facie appears to this court that the property belongs to the Petitioner/ 3rd Party. There are no rival claimants with regard to the ownership of the property.

3.2. A bare reading of Section 497 of BNSS clearly empowers the Court to pass appropriate orders with regard to property for the proper custody pending conclusion of the investigation, inquiry or trial. On perusal of records this court prima facie satisfied that the amount of Rs.28,000/- belongs to the Petitioner/ 3rd Party. This court is of the view that no fruitful purpose will be served in retaining the property in custody of the police/the court for any longer. It will be appropriate to hand over the property to the rightful owner at the earliest as held by the Hon'ble Apex court in *Sunderbai Ambalal Desai Vs. State of Gujarat, 2002(9) SCC 283*.

3.3. On the other hand the objections of the prosecution cannot be completely brushed aside. The apprehensions of the prosecution can be eased by imposing suitable condition on the petitioner. Therefore in consideration of the facts and circumstances of the case, this court is inclined to grant interim custody of amount

of Rs.28,000/- to the Petitioner until the completion of trial and other proceedings in this case subject to the following conditions.

1. The Petitioner shall execute an own bond for a sum of Rs.30,000/- and to produce one surety for sum of Rs.30,000/-, to the satisfaction of this court.
2. The Petitioner shall take photographs of the amount of Rs.28,000/- in all dimensions and produce the same into the Court along with a Compact Disc with certificate U/s.63(4) BSA Act. Also Bond in Form-50 of Criminal Rules of Practice shall be given by the sureties.
3. The Petitioner shall produce the amount of Rs.28,000/- before the Court as and when required.
4. Detailed Panchanama shall be prepared in accordance with Rule 257(1) of Criminal Rules of Practice, 2019.

In the result, the Petition is allowed subject to the above conditions.

Directly dictated to Steno-Typist and typed by her, corrected and pronounced by me in open court on this 28th day of August 2026.

Judicial Magistrate No.II (FAC),
Ariyalur.