

Crl.O.P.(MD)Nos.8698 & 8697 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.05.2025

CORAM

THE HONOURABLE MS.JUSTICE R.POORNIMA

Crl.O.P.(MD)Nos.8698 & 8697 of 2025  
& Crl.M.P.(MD)Nos.6664 & 6665 of 2025

A.Rajesh

...Petitioner in Crl.O.P.(MD)No.8698 of 2025/ Accused No.2

K.Subburaj

...Petitioner in Crl.O.P.(MD)No.8697 of 2025/ Accused No.2

Vs.

The State of Tamil Nadu,  
Rep. by,  
The Inspector of Police,  
M.Pudupatti Police Station,  
Virudhunagar District.  
(Crime No.108 of 2025)

...Respondents

PRAYER: Criminal Original Petitions filed under Section 483(1)(b) of BNS, 2023, to modify the onerous condition No.1 imposed upon the petitioners in Crl.M.P.Nos.1536 & 1537 of 2025 on the file of the Principal District & Sessions Court, Virudhunagar District at Srivilliputhu, dated 08.05.2025.

In both petitions,

For Petitioners : Mr.Ananda Padmanabhan,  
Senior Counsel  
for Mrs.R.Vidhya

For Respondent : Mr.A.S.Abul Kalaamazad  
Government Advocate (Crl. Side)

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## COMMON ORDER

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These petitions have been filed to modify the onerous condition No.1 imposed upon the petitioners in Crl.M.P.Nos.1536 & 1537 of 2025 on the file of the Principal District & Sessions Court, Virudhunagar District at Srivilliputhu, dated 08.05.2025.

2. According to the prosecution case, on 26.04.2025, at 10:40 AM, while the Village Administrative Officer was working in his office, he received information that a fire accident had occurred at an unit of a fire factory located at Pudhupatti - Sivakasi Main Road within the limit of Nedunkulam Village. Immediately, the Village Administrative Officer went to the scene of the accident and came to know that the accident occurred in Room No.14 of the factory, where the fancy firecrackers were being made.

3. In the said accident, four employees died, six employees sustained serious injuries and were immediately taken to the hospital for treatment. Immediately, a complaint was made. As per the complaint, the petitioners and other accused did not provide any safety equipment to the workers despite knowing that a major accident could occur due to a small mistake in the manufacturing room without proper safety equipment. Hence, FIR has been registered against the petitioners and others in Crime No.108 of 2025 for the alleged offences under Sections 288, 125(a) and 105 of BNS, 2023, read with Section 9(B)(1)(a) of Explosives Act, 1884.



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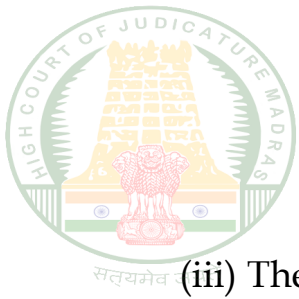
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4. The petitioner in Crl.O.P.(MD)No.8697 of 2025, who is working as a Foreman and the petitioner in Crl.O.P.(MD)No.8698 of 2025, who is working as a Manager were arrested on 26.04.2025 and remanded and confined in Sub Jail, Virudhunagar District for 15 days.

5. The petitioners made applications for bail before the Principal District & Sessions Court, Srivilliputhur in Crl.MP.Nos.1536 & 1537 of 2025. While hearing the applications, the Court allowed the petitions with the condition, directing the petitioners to pay Rs.10,00,000/- each, to the each of the deceased employee, Rs.5,00,000/- each, to the grievously injured employee and Rs.2,00,000/- each, to each of the simple injured employees, i.e., a total additional compensation of Rs.55,00,000/- was ordered to be paid by the petitioners each. Against the said orders, the present petitions are filed by stating that the condition imposed is onerous and tantamount to refusal of bail to the petitioners with the following among other grounds.

(i) The learned Judge mechanically imposed a condition to pay compensation of Rs.10,00,000/- each to the deceased employee and the same is liable to be modified.

(ii) The learned Judge though appreciated that the petitioners are employees, mechanically imposed a condition to pay additional compensation of Rs.55,00,000/- which is not sustainable.



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(iii) The learned Judge failed to consider that bail is a right of an accused until it proved beyond a reasonable doubt before the Court of law that he is guilty of an offence. Though the grant of bail is an exercise of judicial discretion by the Court, imposition of conditions should be fair based on sound judicial principles.

(iv) As far as the deceased employees are concerned, the petitioners are not entitled to pay compensation because all the workers including the deceased and injured persons are covered under Employees State Insurance Act, 1948.

(v) The learned Judge did not consider that the Commissioner of Labour ought to sanction compensation to the workers only depending upon the loss of earning capacity of the injured/employee. The above proviso is very well defined and the Bail Court has no role in payment of compensation or enhancement of the same to the deceased employee.

(vi) As per Section 53 of the Employee State Insurance Act, 1948, there is a bar against receiving or recovery of compensation or damages under any other law, and it states that, an insured person or his dependents shall not be entitled to receive or recover, whether from the employer of the insured person or from any other person, any compensation or damages under the Workmen's Compensation Act, 1923, or any other law for the time being in force or otherwise, in respect of an employment injury sustained by the insured person as an employee under this Act.



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6. The learned counsel appearing for the petitioners stated that the owner of the factory, who has been arrayed as A1 was granted with anticipatory bail by this Court without any condition. The learned counsel also quoted the following judgements to support his contention:-

i) In MOTIRAM VS. STATE OF MADHYA PRADESH reported in 1978 AIR 1594, the Hon'ble Apex Court held that imposition of harsh condition for grant of bail is against law, our bail system is not based on any cash system. If it so then poor people have to spend rest of their life in jail itself.

ii) In SANDEEP JAIN VS NATIONAL CAPITAL TERRITORY OF DELHI reported in 2000 (2) SCC 66 the Hon'ble Apex Court held that:

"... We are unable to appreciate even the first order passed by the Metropolitan Magistrate imposing the onerous condition that an accused at the FIR stage should pay a huge sum of Rs.2 lakhs to be set at liberty. If he had paid it is a different matter. But the fact that he was not able to pay that amount and In default thereof he is to languish in jail for more than 10 months now, is sufficient indication that he was unable to makeup the amount. Can he be detained in custody endlessly for his inability to pay the amount in the range of Rs.2 Lakhs? If the Cheques issued by his surety were dishonoured, the Court could perhaps have taken it as a ground to



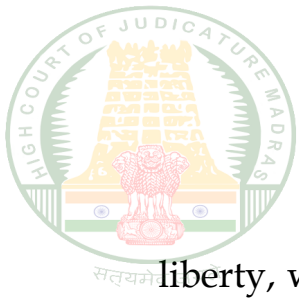
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suggest to the payee of the cheques to resort to the legal remedies provided by law. Similarly if the court was dissatisfied with the conduct of the surety as for his failure to raise fund for honouring the cheques issued by him, the court could have directed the appellant to substitute him another surety. But to keep him in prison for such long period, that too in a case where bail would normally be granted for the offences alleged, is not only hard but improper. It must be remembered that the court has not even come to the conclusion that the allegation made in the FIR are true. That can be decided only when the trial concludes, if the case is charge-sheeted by the police... "

(iii) In SAGAYAM @ DEVASAGAYAM VS STATE OF TAMIL NADU reported in 2017 (3) CTC 291 held that:

"...20. Article 3 of Universal Declaration of Human Rights, 1948 declares that 'everyone has the right of life, liberty and security of person'. Article 21, Constitution of India 1950 proclaims that 'No one shall be deprived of his life or personal liberty except procedure established by law'. And, Article 6 of International covenant on civil and Political Rights, 1966 declares that no one shall be arbitrarily deprived of his life.

21. The Hon'ble Supreme Court in Maneka Gandhi Vs. Union of India (AIR 1978 SC 597) held that any law, procedure depriving a person's life or



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liberty, which is unjust, unreasonable and inequitable militates against the Constitutional mandate in Article 21 of Constitution of India. It is also in abridgement of human rights of accused persons.

22. Thus, directing a poor man to deposit Rs.25,000/-in each case is against Article 21, Constitution of India and Maneka Gandhi (Supra) principle and also the said International Covenants, which have been ratified by our Country..."

Therefore, he prayed that the onerous condition No.1 imposed upon the petitioners in Crl.M.P.Nos.1536 & 1537 of 2025 on the file of the Principal District & Sessions Court, Virudhunagar District at Srivilliputhu, dated 08.05.2025 is liable to be modified.

7. The learned counsel for the intervener, who is the son of one of the deceased, strongly objected to the petitions by stating that the accident occurred solely due to the failure to provide proper safety precautions during the manufacturing process of fancy crackers, which ultimately resulted in this fatal accident. The petitioners and the factory owner have deliberately misled this Court and obtained anticipatory bail for the factory owner under false pretext. The petitioners have failed to comply with the condition, particularly ensuring fatal accident compensation and statutory benefits to the victim and their family. By filing these petitions, the petitioners are attempting to circumvent the direction of this Court through the tactical misuse of the



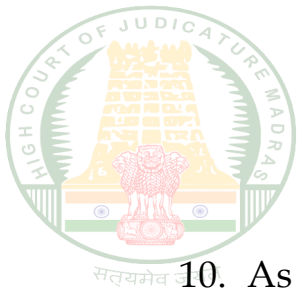
process and therefore, if any leniency is shown to them, the same will amount to a denial of justice to the victim and their families.

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8. The learned Government Advocate (Criminal Side) admitted that the family members of the deceased employees received from the owner, namely A1 to the tune of rupees Rs.5,00,000/- each towards compensation and Rs.50,000/- each towards funeral expenses. He also submitted with regard to the injured victims, the owner has promised to pay a reasonable compensation.

9. The petitioners are only the employees and the onerous liability to pay compensation to the victims, falls on the owner of the factory, as they only engaged the workers in an inherently dangerous activities. The criminal charges are filed against the petitioners who are employees and if the case is proven, they will be punished for not providing safety measures to the employees. But the same can be decided only after the trial. The initial burden lies only upon the owner. As stated above, we learn that the owner, A1, paid compensation to the deceased family. Further, at present in the initial stage, it cannot be decided who is responsible for the accident. The compensation amount awarded is a huge amount, and if the petitioners failed to pay the same, they could remain in jail for non-compliance. Therefore, condition No.1 imposed by the learned Trial Court needs modification.





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10. As a result, I modify the condition only about payment of additional compensation ordered by the Trial Court as follows:

(i) The petitioners each shall pay an additional compensation of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only) to the four families of the deceased victims each; (ii) the petitioners each shall pay an additional compensation of Rs.75,000/- (Rupees Seventy Five Thousand only) to one seriously injured person; and (iii) The petitioners each shall pay an additional compensation of Rs.50,000/- (Rupees Fifty Thousand only) to five simple injured persons each, directly to the victim.

11. With these observations, these Criminal Original Petitions are disposed of. Consequently, connected Miscellaneous Petitions are closed.

sd/-  
29/05/2025

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/05/2025  
Sub-Assistant Registrar  
( C.S. I / II / III / IV )  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

MBI  
TO  
1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,  
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

2 THE JUDICIAL MAGISTRATE NO.II,  
SIVAKASI.

3 THE OFFICER INCHARGE,  
DISTRICT JAIL, VIRUDHUNAGAR.



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4 THE OFFICER INCHARGE,  
SUB JAIL, VIRUDHUNAGAR.

5 THE INSPECTOR OF POLICE,  
M.PUDUPATTI POLICE STATION,  
VIRUDHUNAGAR DISTRICT.

6 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT,  
MADURAI.

+2. CC to M/S.R. VIDHYA Advocate SR.No.31243 (F) DT.29/05/2025

ORDER IN  
Crl.O.P.(MD)Nos.8698 & 8697 of 2025  
Date :29/05/2025

SA/SAR. /29.05.2025/10P/9C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.