

2026 LiveLaw (SC) 389

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
ARAVIND KUMAR; J., PRASANNA B. VARALE; J.
SLP (CRL) NOS.6155/2026; April 13, 2026
FEROZE BASHA & ANR. versus STATE OF TAMIL NADU**

Bharatiya Nagarik Suraksha Sanhita, 2023 – Section 483 (Code of Criminal Procedure, 1973 – Section 437/439) – Bail Conditions – Recovery Proceedings – The Supreme Court reiterated that the jurisdiction of a Court while considering bail is limited to assessing whether an accused should be released pending trial and imposing conditions to ensure a fair trial - It does not extend to adjudicating civil rights or directing the recovery of alleged dues - held that neither the Bharatiya Nagarik Suraksha Sanhita, 2023 nor the Code of Criminal Procedure, 1973 enables a Court, at the stage of bail, to direct the sale of an accused's immovable property to settle alleged claims.

Bail Conditions vs. Final Civil Relief – A bail condition must be regulatory, not punitive or determinative. Ordering the sale of property as a condition for bail is in the nature of a final civil relief that affects property rights and cannot be sustained - Even if a counsel volunteers to sell property to secure bail, the Court should refrain from "tweaking" bail provisions to convert them into recovery proceedings. [Relied on Sumit Mehta Vs. State (NCT of Delhi) (2013) 15 SCC 570; Parvez Noordin Lokhandwalla Vs. State of Maharashtra (2020) 10 SCC 77; Mahesh Chandra Vs. State of U.P. (2006) 6 SCC 196; Paras 6 – 11]

[Arising out of impugned final judgment and order dated 19-01-2026 in CRLOP(MD) No.14319/2025 passed by the High Court of Judicature at Madras at Madurai]

For Petitioner(s): Mr. E Mohammed Abbas, Adv. Mr. A. Lakshminarayanan, AOR Mr. M Laxmi Mahendraa, Adv. Mr. U Kathiravan, Adv. Mr. Abbas, B, Adv.

For Respondent(s): Mr. Sabarish Subramanian, AOR

ORDER

1. Heard.
2. Leave granted.
3. A complaint came to be lodged on 04.06.2025 alleging cheating and misappropriation of money which culminated in registration of FIR No.11/2025 at CCB Police Station, Trichy, against appellants for the offences punishable under Sections 406, 409, 420 and 34 of the Indian Penal Code, 1860.
4. Appellants were arrested and have remained in custody for 83 days during investigation stage. The bail application came to be rejected by the jurisdictional Sessions Court and before the High Court, it was allowed and by the impugned order, the interim bail which was granted earlier was made absolute with a direction to the learned Judicial Magistrate No.1, Trichy, to sell the properties of the appellants and distribute the sale proceeds amongst the complainant and similarly placed persons.
5. Hence, challenging the condition of directing the sale of immovable property as beyond the power vested under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, the appellants are before this Court.
6. At the outset, we would like to make it expressly clear that the jurisdiction of a Court while considering the bail is confined to assess whether the accused should be released pending investigation or trial and to impose conditions to ensure fair investigation or trial, and as such it does not extend to adjudicate in civil rights or directing the recovery of alleged dues.

7. This Court in the case of *Ramesh Kumar Vs. The State of NCT of Delhi in Criminal Appeal No.1741/2023 @ of SLP (Crl.) No.2358/2023* decided on 04.07.2023 has opined or in other words expressly deprecated the practice of imposing such conditions and observed “the Court should refrain from imposing the conditions which have no nexus with the object of granting bail and bail proceedings cannot be converted into recovery proceedings”. In fact, it has been held by this Court that bail condition must be regulatory and not punitive or determinative, as such ordering of sale of property as a bail condition is in the nature of a final civil relief which affect the property rights cannot be sustained.

8. It has been held in the case of *Sumit Mehta Vs. State (NCT of Delhi)*, reported in (2013) 15 SCC 570 to the effect:

“The words ‘any condition’ found in the bail provision cannot be interpreted to be where the Court can impose any condition whatsoever. The condition must have nexus to the fairness of investigation inquired.”

9. Reiterating the above proposition we are of considered opinion that neither Bharatiya Nagarik Suraksha Sanhita, 2023 nor Code of criminal Procedure, 1973 would enable a Court at the stage of bail or investigation to direct the sale of immovable property belonging to accused for settlement of alleged claims. In the case of *Parvez Noordin Lokhandwalla Vs. State of Maharashtra And Another*, reported in (2020) 10 SCC 77, this Court has reiterated the said position as under:

“Condition imposed must not be arbitrary, fanciful and extend beyond the purpose of ensuring proper investigation or trial.”

10. We reiterate the proposition that the jurisdiction of Court while granting bail is not to decide the civil rights or disputes or imposed conditions which virtually grant the final civil relief which the complainant may be urging. Such conditions would be alien to the bail provisions as held by this Court in the case of *Mahesh Chandra Vs. State of U.P. And Others*, reported in (2006) 6 SCC 196.

11. Keeping the aforesaid principles in mind when we turn our attention to the facts on hand, it would clearly indicate that on 02.09.2025, the learned counsel appearing for the appellants who was seeking for grant of bail in favour of the appellants, himself volunteered and “undertook to sell the properties and deposit the amount”. This seems to have prompted the learned High Court to arrive at the conclusion that the properties of the appellants is to be sold and in the endeavour of doing substantial justice has tweaked the bail provisions by directing the learned Magistrate himself to sell the properties of the appellant and pay the proceeds of the sale to the victims which was not warranted. On this ground itself, the impugned order imposing the condition of selling the properties of the appellants for grant of bail not being warranted is set aside. At this juncture, the learned counsel appearing for the appellant would submit that all attempts are being made to sell the properties and pay the amounts to the complainant and similarly placed persons. His submission is placed on record. The appellants would be at liberty to take such appropriate steps as they deem fit. The condition imposed for depositing the title deeds of the properties to secure the presence of the accused remains intact and the condition insofar as it stipulates, the sale of the properties by the appellant by the jurisdictional Magistrate is set aside. Accordingly, the appeal is allowed.

12. Pending application(s), if any, shall stand disposed of.