



Crl.Nos.19752 and 19753 of 2026

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-07-2026

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.OP.Nos.19752 and 19753 of 2026

R.V.Ashok Kumar
S/o.P.Velusamy,
Residing at No.123, Rameswarapatti,
Manmangalam, Karur District-639 006. ... Petitioner
(in Crl.OP.No.19752 of 2026)

Mr. V.Senthil Balaji
S/o.P.Velusamy,
Residing at No.123, Rameswarapatti,
Manmangalam, Karur District-639 006.
(Sitting MLA, Coimbatore South Constituency) ... Petitioner
(in Crl.OP.No.19753 of 2026)

Vs.

1. The Commissioner of Police,
Greater Chennai Police, Chennai.
2. The Director,
Directorate of Vigilance and Anti-Corruption,
MKN Road, Alandur, Chennai.



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3. The Superintendent of Police,
Karur District, Karur.

4. The Inspector of Police,
D1 Police Station, Triplicane,
Chennai

... Respondents

(Crl.OP.Nos.19752 and 19753 of 2026)

Prayer: Criminal Original Petition filed under Section 528 of BNSS, seeking a direction to the respondents not to harass the petitioners under the guise of search, enquiry or investigation, and if the presence of the petitioners are required in any pending or propose case, to issue proper written notice as per Section 35(3) of BNSS as mandated in Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 by considering the petitioner's representation dated 11.07.2026.

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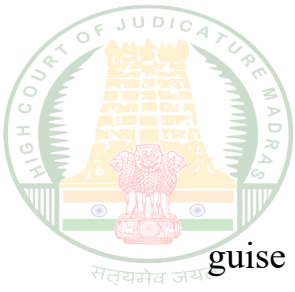
For Petitioners : Mr.N.R.Elango
for Mr.S.Vinoth Kumar

For Respondent : Mr.R.John Sathyan,
Public Prosecutor,
Assisted by
Mr.Arun Anbumani
Government Advocate (Crl.Side)

COMMON ORDER

These Criminal Original Petitions have been filed seeking a direction to the respondents not to harass the petitioners under the

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in guise of search, enquiry or investigation and, if the presence of the petitioners is required in connection with any pending or proposed case, to issue a proper written notice under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), in accordance with the law laid down by the Hon'ble Supreme Court in ***Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273***, by considering the petitioners' representation dated 11.07.2026.

2. Heard both sides and perused the materials available on record.

3. Both the petitioners are arrayed as accused in Crime No.205 of 2026 on the file of the fourth respondent. They had filed anticipatory bail petitions in Crl.O.P. Nos.17765 and 17241 of 2026. This Court, by a common order dated 08.07.2026, granted anticipatory bail to the petitioners, subject to the following conditions:

a) the petitioners and the sureties shall affix their photographs and left thumb impression in the surety



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bond and the Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

b) the petitioners shall report before the respondent police daily at 10.30a.m., in the Morning and at 5.30p.,m in the Evening and shall co-operate to the investigation until further orders:

c) the petitioners shall not tamper with evidence or witness either during investigation or trial;

d) the petitioners shall not abscond either during investigation or trial:

*e) on breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioner were released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji Vs. State of Kerala[(2005) AIR SCW 5560]** ; and*

f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.



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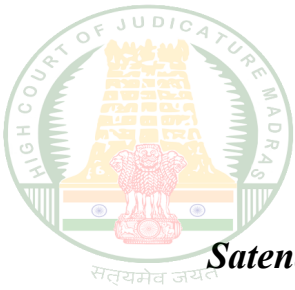
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4. Admittedly, the petitioners have not surrendered before the jurisdictional Court or executed the sureties as directed by the Court while granting anticipatory bail. The petitioners now apprehend that they may be subjected to harassment by the respondents under the guise of search, enquiry or investigation in connection with the pending or any proposed cases.

5. The learned Senior Counsel appearing for the petitioners submitted that the petitioners belong to a political party and opposed the present ruling party. According to the learned Senior Counsel, after a change in the political regime, false criminal cases have been foisted against the petitioners due to political enmity. It was therefore contended that the respondents should not be permitted to harass the petitioners under the guise of search, enquiry or investigation in connection with any pending or proposed case.

6. In support of his submissions, the learned Senior Counsel placed reliance on the decision of the Hon'ble Supreme Court in

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Satender Kumar Antil v. Central Bureau of Investigation and

another, reported in ***2026 SCC OnLine SC 162***, wherein the Hon'ble

Supreme Court issued the following directions:

“ Conclusion:

32. The power of arrest under Section 35(6) r/w Section 36(1) (b) of the BNSS, 2023 must be interpreted as a strict objective necessity and not a subjective convenience for the police officer. It does not mean the police officer can arrest to simply ask questions. However, it means that the police officer must satisfy himself that the investigation, qua an offence punishable with imprisonment up to 7 years, cannot proceed effectively without taking the concerned individual into custody. Any interpretation to the contrary would clearly frustrate the purpose and legislative intent of Sections 35(1)(b) and Sections 35(3) to 35(6) of the BNSS, 2023.

33. On the basis of the interpretation given by us, we conclude as follows:

a. An arrest by a police officer is a mere statutory discretion which facilitates him to conduct proper investigation in the form of collection of evidence and,



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therefore, shall not be termed as mandatory.

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b. Consequently, the police officer shall ask himself the question as to whether an arrest is a necessity or not, before undertaking the said exercise.

c. For effecting an arrest, qua an offence punishable with imprisonment up to 7 years, the mandate of Section 35(1)(b)(1) of the BNSS, 2023 along with any one of the conditions mentioned in Section 35(1)(b)(ii) of the BNSS, 2023 must be in existence.

d. A notice under Section 35(3) of the BNSS, 2023 to an accused or any individual concerned, qua offences punishable with imprisonment up to 7 years, is the rule.

e. Even if the circumstances warranting an arrest of a person are available in terms of the conditions mentioned under Section 35(1)(b) of the BNSS, 2023, the arrest shall not be undertaken, unless it absolutely warranted.

f. Power of arrest under Section 35(6) r/w Section 35(1)(b) of the BNSS, 2023. Pursuant to a notice issued under Section 35(3) of the BNSS, 2023 is not a matter of routine, but an exception, and the police officer is



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expected to be circumspect and slow in exercising the

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7. Admittedly, the petitioners have not appeared before the fourth respondent in Crime No.205 of 2026 or executed the sureties pursuant to the anticipatory bail granted by this Court. It is submitted that 27.07.2026 is the last date for complying with the condition regarding execution of sureties.

8. The learned Public Prosecutor submitted that, so far, the petitioners have not been called for enquiry and that no other FIR has been registered against them.

9. It is not in dispute that both the petitioners are arrayed as accused in Crime No.205 of 2026 on the file of the fourth respondent for the alleged offences punishable under Sections 8 and 12 of the Prevention of Corruption Act, 1988, and Sections 61(2)(a) and 351(3) of the Bharatiya Nyaya Sanhita, 2023.

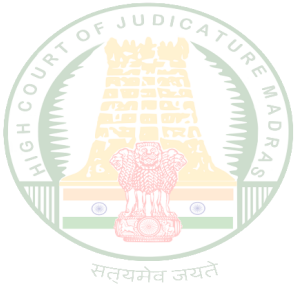


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10. In view of the above, this Court is of the considered opinion that the relief sought for in these petitions is premature. As of now, there is no material to substantiate the petitioners' apprehension that they are likely to be harassed by the respondents under the guise of search, enquiry or investigation in connection with any pending or proposed case.

11. Further, once the petitioners have been arrayed as accused in a criminal case, the investigation has to proceed in accordance with law. Any direction issued by this Court at this stage, as sought for by the petitioners, would amount to unwarranted interference with the investigation being conducted by the fourth respondent. Therefore, the relief sought for in these petitions cannot be granted.



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12. Accordingly, these Criminal Original Petitions stand

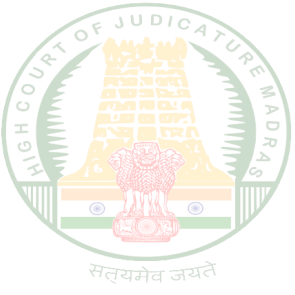
dismissed.

22.07.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
Vv

To

1. The Commissioner of Police,
Greater Chennai Police, Chennai.
2. The Director,
Directorate of Vigilance and Anti-Corruption,
MKN Road, Alandur, Chennai.
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