

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09-10-2026

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THE HON'BLE MR JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR JUSTICE B.PUGALENDHI

WP(MD) No. 29140 of 2026

CNR:{HCMD011452762026}



AND

WMP(MD) No. 22114 of 2026

CNR:{HCMD011452772026}



WMP(MD) No. 22115 of 2026

CNR:{HCMD011452782026}



1. Baskaran Thanthai Periyar Nagar,
Barma Colony, Karaikudi Taluk,
Sivaganga District
2. Santhoshkannan, S/o.Alagarsamy,
C/o.Anbalagan, 3/55, Ammapatti,
Shenbagampettai,Sivaganga
3. Rajendran, S/o.Veerappan,
No.696, Nagappanpatti,
Shenbagampettai,
Sivaganga- 63212
4. Muthusamy, C/o.Chinnaiya,
No.738, Nagappanpatti,
Ilaynthagudi South,
Sivaganga – 630212
5. Kalyanasundaram,
S/o.Ponnalagu,
No.753, Nagappanpatti,
Shenbagampettai,
Sivaganga - 630212

..Petitioner(s)

Vs

1. The District Collector/Monitoring Committee,
Sivagangai District..



2. The Revenue Divisional Officer,
Tirupattur, Sivagangai District

3. The Tahsildar, O/o.The Tahsildar,
Thirupattur Taluk,
Sivagangai District

4. The Block Development Officer,
Town Panchayats,
Thirupattur, Sivagangai District

5. Athappan, No.A3, Ramakrishna Nagar,
Jamal Mohamed College,
Kallukuli, Tiruchirappalli - 620020

6. The Inspector of Police,
Keelasevalpatti Police Station, Sivagangai
District.

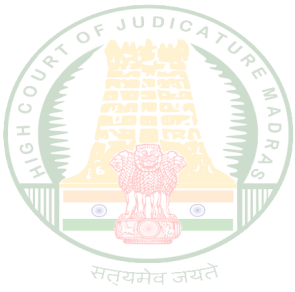
(R-6 is suo motu impleaded vide court order dated
08.10.2026 in WP(MD)No.29140/26 by GRSJ and
BPJ)

..Respondent(s)

PRAYER: (Water Body) Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the 1 to 3 respondents to remove the encroachment made by the 5th respondent in Survey No.728, Ammapatti and Nagappanpatti Villages, Tirupattur Taluk, Sivagangai District, and the connected water bodies and restore the natural inflow and outflow of water to Chinnakosavan Kanmoi, Periyakosavan Kanmoi and Potta Kanmoi within time frame fixed by this Honble Court based on the representation dated 26.09.2026 and pass any other order or orders as this Honble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner(s): Mr.K.Navaneetharaja

For Respondent(s): Ms.M.R.Priyanka Jothi
Government Advocate for R1 to R3



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Mr.A.Shanmugam
Government Advocate for R4

Mr.S.Srinivasa Raghavan
Government Advocate for R5

Mr.I.Murugesan
Government Advocate for R6

ORDER

“Deprivation of liberty even for a single day is one day too many” –

Dr.D.Y Chandrachud, J.

The villagers of Ammapatti and Nagappanpatti, Thiruppathur Taluk in Sivagangai District are the petitioners herein. They take exception to certain activities carried out by a commercial entity known as “Kwality Shutters”. The said entity by engaging the fifth respondent has installed solar panels in over 65 acres of patta land after obtaining permission from the authorities concerned. However, in order to access their patta land, they have apparently formed a mud road. The case of the petitioners is that the road cuts across the water catchment area which is contiguous to the tank. In order to ensure flow of water, the said entity has installed cement pipes beneath the newly formed road. According to the petitioners, this was done to facilitate movement of vehicles.

2. It is conceded that the formation of the road as well as the laying of culvert cement pipes underneath the newly formed road were without

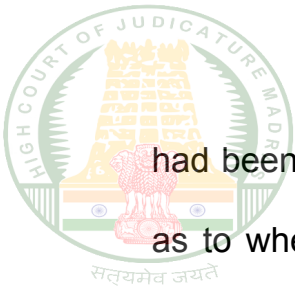


permission from the authorities concerned. The private entity had done both on their own. The villagers agitated against the work of the said private entity.

For this, a criminal case was registered and two persons are still in jail. This was the submission made by the learned counsel for the petitioner on the last occasion. We, therefore, suo motu impleaded the jurisdictional police and listed the matter today.

3. The learned Government counsel appearing for the jurisdictional police submitted that on 15.09.2026, Crime No.105 of 2026 was registered on the file of KeelaSevalpatti police station for the offences under Sections 191(2), 296(2), 395(2) of the BNS, 2023 and Section 3 of the Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992. Two persons, namely, Natarajan and Xavier Kennedy were arrested on 23.09.2026 and they were remanded to judicial custody. The remand holds good till 13.10.2026. In the meanwhile, the bail petition filed by them in Cr.M.P.No.2593 of 2026 was dismissed on 06.10.2026 by the learned Principal Sessions Judge, Sivagangai.

4. We went through the contents of the dismissal order. It was represented before the learned Sessions Judge as if Solar panels worth Rs.10 Lakhs had been damaged by them. It was also submitted that the co-accused are yet to be arrested. We had a look at the order dated 06.10.2026 dismissing the anticipatory bail petition filed by the co-accused. What had loomed large before the Court below was the allegation that huge damage



had been caused. We posed a direct question to the instructing police official as to whether solar panels had been damaged. He frankly admitted that no damage had been caused to the solar panels. What was damaged was the cement culvert pipes. Admittedly, they were installed by the private entity in the tank bund area without any permission from any authority. In other words, the very installation of the cement pipes was illegal. The villagers wanted the administration to take action. It remained indifferent and silent. Left with no other option, the villagers themselves removed the culvert pipes on their own. We may not be able to condone the said act. But, for how long should they wait ? When the official machinery fails, can we blame the citizenry for acting on their own ? As Judges, it will not be appropriate for us to take the discussion further. But, we have no doubt in our minds that the continued incarceration of the two individuals is not warranted. This is all the more so because their bail petitions were dismissed by projecting falsehood before the Sessions Court.

5. We do not have the bail roster. Otherwise, we would have straightaway granted relief. But this Division Bench can certainly exercise its jurisdiction under Article 227 of the Constitution of India. The provision reads that every High Court shall have superintendence over all courts and Tribunals throughout the territories in relation to which it exercises jurisdiction. The Hon'ble Supreme Court in the decision reported in **(2010) 8 SCC 329 (Shailini Shyam Shetty v. Rajendra Shankar Patil)** formulated principles on the exercise of High Court's jurisdiction under Article 227. It was held that the



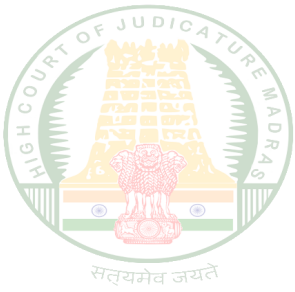
High Court's power of superintendence cannot be curtailed by any statute ; the power is discretionary and has to be exercised on equitable principle ; in an appropriate case, the power can be exercised suo motu. The main object of this Article is to keep strict administrative and judicial control by the High Court on the administrative of justice within its territory. It is to maintain efficiency and orderly function of the entire machinery of justice in such a way as it does not bring it into any disrepute. This power can be exercised for promotion of public confidence in the administration of justice in the larger public interest.

6.The Hon'ble Supreme Court of India in ***Arnab Goswami v. State of Maharashtra (2021) 2 SCC 427*** observed as follows :

“67. Human liberty is a precious constitutional value....

..... The writ of liberty runs through the fabric of the Constitution. The need to ensure the fair investigation of crime is undoubtedly important in itself, because it protects at one level the rights of the victim and, at a more fundamental level, the societal interest in ensuring that crime is investigated and dealt with in accordance with law. On the other hand, the misuse of the criminal law is a matter of which the High Court and the lower courts in this country must be alive.....

Courts must be alive to the need to safeguard the public interest in ensuring that the due enforcement of criminal law is not obstructed. The fair investigation of crime is an aid to it. Equally it is the duty of courts across the spectrum—the district judiciary, the High Courts and the Supreme Court—to ensure



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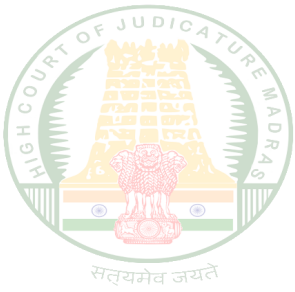


that the criminal law does not become a weapon for the selective harassment of citizens. Courts should be alive to both ends of the spectrum—the need to ensure the proper enforcement of criminal law on the one hand and the need, on the other, of ensuring that the law does not become a ruse for targeted harassment. Liberty across human eras is as tenuous as tenuous can be. Liberty survives by the vigilance of her citizens, on the cacophony of the media and in the dusty corridors of courts alive to the rule of (and not by) law. Yet, much too often, liberty is a casualty when one of these components is found wanting...

68.....Where the High Court has failed to do so, this Court would be abdicating its role and functions as a constitutional court if it refuses to interfere, despite the parameters for such interference being met. The doors of this Court cannot be closed to a citizen who is able to establish prima facie that the instrumentality of the State is being weaponised for using the force of criminal law. Our courts must ensure that they continue to remain the first line of defence against the deprivation of the liberty of citizens. Deprivation of liberty even for a single day is one day too many. We must always be mindful of the deeper systemic implications of our decisions.

69. It would be apposite to extract the observations made, albeit in a dissenting opinion, by one of us (Dhananjaya Y. Chandrachud, J.) in a decision of a three-Judge Bench in *Romila Thapar v. Union of India* (2018) 10 SCC 753.

“79. ...[T]he basic entitlement of every citizen who is faced with allegations of criminal wrongdoing, is that the investigative process should be fair. This is an integral component of the guarantee against



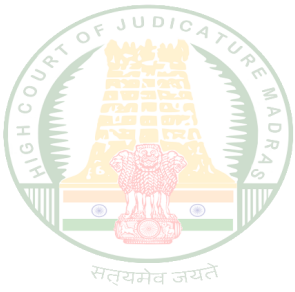
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arbitrariness under Article 14 and of the right to life and personal liberty under Article 21. If this Court were not to stand by the principles which we have formulated, we may witness a soulful requiem to liberty.”

The decision was a dissent in the facts of the case. The view of the leading majority judgment is undoubtedly the view of the Court, which binds us. However, the principle quoted above is in line with the precedents of this Court.

70. More than four decades ago, in a celebrated judgment in *State of Rajasthan v. Balchand* 1977 SCC (Cri) 594] , Krishna Iyer, J. pithily reminded us that the basic rule of our criminal justice system is “bail, not jail” [These words of Krishna Iyer, J. are not isolated silos in our jurisprudence, but have been consistently followed in judgments of this Court for decades. Some of these judgments are : *State of U.P. v. Amarmani Tripathi*, (2005) 8 SCC 21, (2) and *Sanjay Chandra v. CBI*, (2012) 1 SCC 40 : . The High Courts and courts in the district judiciary of India must enforce this principle in practice, and not forego that duty, leaving this Court to intervene at all times. We must in particular also emphasise the role of the district judiciary, which provides the first point of interface to the citizen. Our district judiciary is wrongly referred to as the “subordinate judiciary”. It may be subordinate in hierarchy but it is not subordinate in terms of its importance in the lives of citizens or in terms of the duty to render justice to them. High Courts get burdened when courts of first instance decline to grant anticipatory bail or bail in deserving cases. This continues in the Supreme Court as well, when High Courts do not grant bail or anticipatory bail in cases falling within the parameters of the law. The consequence for those who suffer incarceration are



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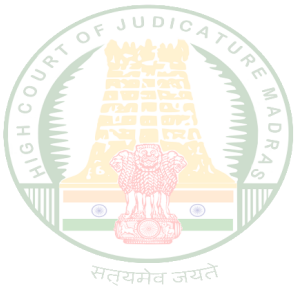


serious. Common citizens without the means or resources to move the High Courts or this Court languish as undertrials. Courts must be alive to the situation as it prevails on the ground—in the jails and police stations where human dignity has no protector. As Judges, we would do well to remind ourselves that it is through the instrumentality of bail that our criminal justice system's primordial interest in preserving the presumption of innocence finds its most eloquent expression. The remedy of bail is the “solemn expression of the humaneness of the justice system” [Arghya Sengupta and Ritvika Sharma, ‘Saharashri and the Supremes’, (The Wire, 23-6-2015) available at <<https://thewire.in/economy/saharashri-and-the-supremes>>] . Tasked as we are with the primary responsibility of preserving the liberty of all citizens, we cannot countenance an approach that has the consequence of applying this basic rule in an inverted form. We have given expression to our anguish in a case where a citizen has approached this Court. We have done so in order to reiterate principles which must govern countless other faces whose voices should not go unheard.

72..... Every court in our country would do well to remember Lord Denning's powerful invocation in the first Hamlyn Lecture, titled “Freedom under the Law”

“Whenever one of the Judges takes seat, there is one application which by long tradition has priority over all others. The counsel has but to say, ‘My Lord, I have an application which concerns the liberty of the subject’, and forthwith the Judge will put all other matters aside and hear it.

It is our earnest hope that our courts will exhibit acute awareness to the need to expand the footprint of liberty and use



our approach as a decision-making yardstick for future cases involving the grant of bail.”

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7. When we sat this afternoon, the searing remarks of the Supreme Court in the above decision echoed in our ears. Courts exist for everyone, common man included. We felt that the villagers of Ammapatti would lose faith in the system. It is our duty to ensure that the system commands public confidence. The facts appearing before us necessitate invocation of our supervisory jurisdiction. Here, we find a group of rustic villagers espousing the cause of environment. They might have gone overboard. They might have taken the law in their own hands. But we cannot forget the fact that they had only damaged something that was illegally installed. We need persons with passion to stand up for the cause of ecology. If such persons are made to languish in jail on false allegations, that would stifle even genuine activism. People will hesitate to engage in field level confrontation which appears to be becoming necessary. They alone can stand between protection of ecology and corporate greed.

8. We, therefore, direct the learned Principal Sessions Judge, Sivagangai to hold special sitting tomorrow at 11.00 A.M. The bail petition to be filed on behalf of Natarajan and Xavier Kennedy will be taken for hearing. The jurisdictional police represented by the Assistant Public Prosecutor will enter appearance. Canons of judicial propriety impel us to refrain from indicating the outcome. We are however confident that amends will be made



by the Assistant Public Prosecutor by properly placing the facts. The bail petitions will be disposed of by tomorrow afternoon itself. We direct the Registry to immediately communicate this order to the learned Principal Sessions Judge, Sivagangai.

9. For reporting compliance, call this case on 12.10.2026 at 04.40 P.M.

(G.R.S.,J.) (B.P.,J.)
09-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
SKM

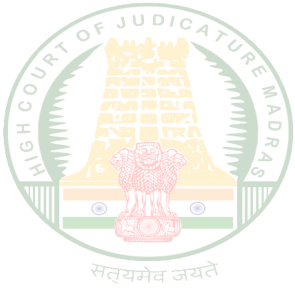
To

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4. The Block Development Officer,
Town Panchayats, Thirupattur, Sivagangai District
5. The Inspector of Police,
Keelasevalpatti Police Station, Sivagangai District.

Copy to:

The Registrar (Judicial),

Madurai Bench.



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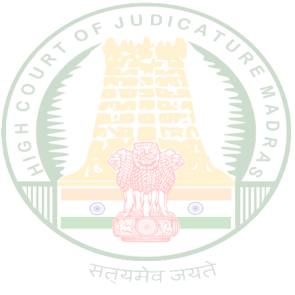
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