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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 30.09.2026 - Crl.OP(MD)Nos. 20517, 21736 and 22253 of 2026

Reserved On : 01.10.2026 - Crl.OP(MD)No.22762 of 2026

Delivered On: 04.11.2026

CORAM

THE HON'BLE DR. JUSTICE P. MURUGAN

Crl.O.P(MD) No. 20517 of 2026
{CNR: HCMD011314252026} Case QR

and

Crl.M.P(MD) No. 19508 of 2026

Crl.O.P(MD) No. 21736 of 2026
{CNR: HCMD011348562026} Case QR

and

Crl.M.P(MD) No. 20704 of 2026

Crl. O.P(MD) No. 22253 of 2026
{CNR: HCMD011385572026} Case QR

and

Crl.M.P(MD) No. 21175 of 2026

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Crl.O.P(MD) No. 22762 of 2026
{CNR: HCMD011430372026}

and

Crl.M.P(MD) No. 21654 of 2026

Crl.O.P(MD) No. 20517 of 2026:

S.P.Ramesh Kumar,
S/o Periyakaruppan,
1-165 East Street,
Viraganur, Madurai.
Confined in Central Prison,
Madurai. ... Petitioner/A8

Vs.

1. The Union of India,
Rep. by The Deputy Superintendent of Police,
CBI SC III,
New Delhi.
(RC-08(S)/2025/CBI/SC-III/New Delhi)

2. S.Raja,
S/o R.Sekar,
Malavarayanenthal Colony,
Thiruppacheri Post,
Manamadurai Taluk,
Sivagangai District.

3. A.Ananth,
S/o K.Adiyaraja,
T.N.Thiruppacheti Post,
Manamadurai Taluk,
Sivagangai.

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4. S.Sankaramanikandan,
S/o.M.Samayan,
Nethaji Street,
SIPCOT, Manamadurai Taluk,
Sivagangai.

5. G.Prabhu,
S/o.M.Ganeshan,
No.3/66 Pudupatti,
Poovanthi, Thiruppuvanam Taluk,
Sivagangai District.

6. G.Kannan,
S/o.K.Guruswamy,
Quarter No.7, A-Block,
Thiruppuvanam Police Quarters,
Sivagangai District.

7. P.Ramachandran,
S/o.Pandiyan,
No.1/230 Kalimangalam,
Kunnathur,
Madurai District.

8. N.Shanmugasundaram,
S/o Natarajan,
68 F12, Ayyan Thottam,
Kumarapalayam,
Namakkal District.

9. Siva Kumar,
S/o.Subbiah,
No.6/168, Village Villiyarendal,
National Highway Rameshwaram - Madurai,
Thiruppuvanam Post,
Sivagangai District.

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10. Ilayaraja,
S/o.Ganesan,
No.1/230 Kalimangalam,
Kunnathur,
Madurai District.
(Petition against R2 to R10 withdrawn by the petitioner
on 15.09.2026)

11. Naveen Kumar,
S/o. Balaguru,
Door No. 168, Middle Street (Nadar Street),
Madapuram,
Thiruppuvanam Taluk,
Sivagangai District.
(R11 is impleaded as per order of the Court
dated 24.09.2026 in Crl.MP(MD).20363 of 2026
in Crl.O.P(MD).20517 of 2026 by PMNJ)
... Respondents

Prayer: This Criminal Original Petition is filed under section 528 of BNSS, to call for the records relating to the order dated 10.09.2026 made in S.C.No.709 of 2025 on the file of the V Additional Sessions Judge, Madurai, and to *set aside* the same insofar as remand of the petitioner is concerned.

For Petitioner **:** Mr.R.Gandhi, Senior Advocate
for Mr.A.Balaji

For Respondents **:** Mr.N.Mohideen Basha
Special Public Prosecutor for CBI
for R1

: Mrs.Nithya Ramakrishnan
Senior Advocate, Assisted by
Mr.Henry Patrick Triphange for R11

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Crl.O.P.(MD)No.21736 of 2026:

S.Sivakumar,
S/o. Subbaiah,
6/168, Fourway Track,
Villiyarendal,
Ladanendal,
Sivagangai District - 630 611. ... Petitioner / A9

Vs

The Deputy Superintendent of Police,
Special Crime - III Branch,
Central Bureau of Investigation (CBI),
New Delhi.
(Crime No. RC-08(S)/2025/CBI/SC-III/New Delhi)

... Respondent

For Petitioner : Mr.T.Lajapathy Roy, Senior Advocate
M/s Roy and Roy Associates

For Respondents : Mr.N.Mohideen Basha
Special Public Prosecutor for CBI

Prayer: This Criminal Original Petition is filed under section 528 of BNSS, to call for records pertaining to the order of remand in S.C.No. 709 of 2025 dated 10.09.2026 on the file of the V Additional Sessions Judge, Madurai District in Crime No. RC08(S)/2025/CBI/SC-III/New Delhi on the file of the respondent and to *set aside* the same as illegal as against the petitioner alone.

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Crl.O.P(MD) No. 22253 of 2026:

N.Shanmugasundaram,
S/o Late Natarajan,
Deputy Superintendent of Police (under suspension),
68F/ 12, Ayyan Thottam,
Pallipalayam Road,
Kumarapalayam Taluk,
Namakkal District 638 183.
Presently confined as a remand prisoner
at Central Prison,
Madurai. ... Petitioner /A7

Vs.

The State of Tamilnadu,
Rep. by Special Crime -III Branch,
Central Bureau of Investigation (CBI)
New Delhi.
(FIR No. RC-08(S)/2025/CBI/SC-III/New Delhi)
... Respondent

For Petitioner **:** Mr.S.Chellapandian
Senior Advocate
For M/s. S. Bageerathan

For Respondent **:** Mr.N. Mohideen Basha
Special Pubic Prosecutor for CBI

Prayer: This Criminal Original Petition is filed under section 528 of BNSS, to call for the records relating to the order dated 10.09.2026 made in S.C.No. 709 of 2025 on the file of the V Additional Sessions Court, Madurai and to *set aside* the same with any condition imposed by the Court in so far the remand of the petitioner, the 7th accused is concerned and to direct his release forthwith.

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Crl.O.P(MD) No. 22762 of 2026:

G.Ilayaraja,
S/o Ganesan,
No.1/230, Kalimangalam,
Kunnathur,
Madurai 625 020. ... Petitioner /A10

Vs.

The State,
Rep. by, Special Crime-III Branch,
Central Bureau of Investigation (CBI),
New Delhi.
(Crime No.RC-08(S)/2025/CBI/SC-III/New Delhi)
... Respondent

For Petitioner : Mr.A.Raja
For Mr.C.M. Arumugam

For Respondent : Mr.N.Mohideen Basha
Special Public Prosecutor for CBI Cases

Prayer: This Criminal Original Petition is filed under section 528 of BNSS, to call for the records pertaining to the order of remand in SC.No.709 of 2025 dated 10.09.2026 on the file of the V Additional Sessions Judge, Madurai District in Crime No.RC- 08(S)/ 2025/ CBI/SC-III/New Delhi on the file of the respondent and to *set aside* the same as illegal as against the petitioner / A10.

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C O M M O N O R D E R

The Accused Nos. 7 to 10 in S.C.No.709 of 2025 on the file of the V Additional Sessions Judge, Madurai District, have filed these four petitions separately through separate counsel by A8, A9, A7 and A10 respectively, challenging the remand order dated 10.09.2026 passed by the said Judge.

2. Though different counsels argued the case by touching upon the remand order is not valid, at the convenient of the Court as well as to avoid repetition this Court is of a view that a common order is to be passed in all four cases. Accordingly, this common order.

3. The brief facts to dispose of these cases are as that on 27.06.2025, one Nikkitha and her aged mother Sivagami visited Pathrakali Amman Temple at Madappuram. The deceased Ajith Kumar in S.C.No.709 of 2025 was working as security guard in the said temple. The said Nikkitha made a complaint against the said Ajith Kumar stating that 9.5 sovereigns of gold jewels and Rs.2,500/- missing from her car and having suspect over the

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deceased Ajith Kumar. The said Ajith Kumar was brought to Tiruppuvanam Police Station in connection with the enquiry. As per the prosecution case, a special crime team consisting of Al to A6 was functioning under the Deputy Superintendent of Police, Manamadurai Sub-Division. The said special team detained the said Ajith Kumar in connection with the alleged theft of gold jewels and cash from the car of Nikkitha. During the course of investigation, the police officials belonging to the special team assaulted the said Ajith Kumar and as a result of which, he sustained injuries and subsequently died.

4. In this regard, initially, a case in Crime No.303 of 2025 was registered at Tiruppuvanam Police Station. Thereafter, the investigation was transferred to the CBI pursuant to the direction issued by the Division Bench of this Court and followed that the Government Order issued by the Government of Tamil Nadu. After the CBI taken over the investigation, it conducted investigation and filed a police report against six accused persons A1 to A6. The Chief Judicial Magistrate, Madurai, which is the Court to take cognizance in P.R.C, as the CBI investigated the case, committed the case to the Sessions Court, Madurai. That Court after assigning the

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case number in S.C.No.709 of 2025, made over to V Additional Sessions Judge, Madurai for disposal.

5. As per the further direction of the Division Bench of this Court, the CBI filed a supplementary charge sheet before the Chief Judicial Magistrate, Madurai, against the other accused, i.e. A7 to A10. However, in the initial investigation, the CBI arrested the original accused A1 to A6 and remanded them to judicial custody. Since the CBI has not arrested A7 to A10, during the further investigation and the same has been noted in the supplementary charge sheet that no arrest was made as far as A7 to A10 when the supplementary charge sheet was filed before the Chief Judicial Magistrate. Having the Chief Judicial Magistrate, Madurai, summoned the appearance of A7 to A10, they appeared before the Chief Judicial Magistrate, Madurai. Pursuant to the direction of the Chief Judicial Magistrate, A7 to A10 executed a bond under section 91 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (in short 'BNSS') and furnished substantial sureties.

6. Apprehending that the committal Court may remand or the CBI might seek their remand, A7 to A10 moved separate anticipatory bail petitions before this Court in Crl.O.P.(MD)

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Nos. 5406, 4859, 5191 and 5192 of 2026, respectively, through separate counsels. All the petitions were disposed by a common order dated 15.06.2026 holding that, having A7 to A10 had executed bond under section 91 of BNSS and the committal Court also accepted their bonds and the case is in the committal stage to the Sessions Court as far as A7 to A10 are concerned their anticipatory bail petitions were dismissed and directed the Chief Judicial Magistrate, Madurai, not to remand A7 to A10 to custody while committing the case to the Sessions Court.

7. The case against A7 to A10 as per the supplementary charge sheet and offence therein are under sections 61(2) r/w 127(2), 238 and 337 of BNS. Thereafter, the case against A7 to A10 were committed to the Sessions Judge, Madurai and subsequently, that case was made over to the V Additional Sessions Judge, Madurai. After issuance of summons by the V Additional Sessions Judge, A7 to A10 appeared and they appointed counsels and the counsels filed vakalats. A7 to A10 continued to appear before the V Additional Sessions Judge, Madurai, (herein after referred as 'Sessions Court or trial Court') on 29.07.2026, 05.08.2026, 13.08.2026, 21.08.2026, 24.08.2026, 03.09.2026, 09.09.2026 and 10.09.2026. On 10.09.2026,

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the trial Court framed charges against all the ten accused.

8. As per the initial police report, the case was registered against A1 to A6 with the major offence of murder under section 103(1) of BNS, in addition to other offences. As far as the supplementary charge sheet is concerned as against A7 to A10, there was no charge under section 103(1) of BNS in the aid of criminal conspiracy or common intention or abetment. However, the trial Court *inter alia* framed charges against A7 under sections 140(1) r/w 49, 103(1) r/w 49, 120(2) r/w 49, 127(8) r/w 49, 61(2) r/w 238 r/w 103(1), 256 r/w 49, 337 r/w 49 of BNS; against A8 under sections 140(1) r/w 49, 103(1) r/w 49, 120(2) r/w 49, 127(8) r/w 49, 61(2) r/w 238 r/w 103(1),238 r/w. 103(1), 256 r/w 49, 337 r/w 49, 235 r/w 3(5) of BNS; against A9 under sections 140 (1) r/w 49, 103(1) r/w 49, 120(2) r/w 49, 127(8) r/w 49, 61(2) r/w 238 r/w 103(1), 238 r/w 103(1), 256 r/w 49, 227, 337 r/w 49 of BNS; and against A10 under sections 140 (1) r/w 49, 103(1) r/w 49, 120(2) r/w 49, 127(8) r/w 49, 61(2) r/w 238 r/w 103(1), 238 r/w 103(1), 256 r/w 49, 238 r/w 103 (1), 256 r/w 49, 237 of BNS. After framing charges against all the accused, i.e. A1 to A10, and questioning them, all the accused pleaded not guilty and claimed to be tried.

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9. After framing the charges and questioning the accused, the trial Court extended the remand of A1 to A6 and remanded A7 to A10, to the judicial custody, who had already executed bonds under section 91 of the BNSS. The remand of A7 to A10 to the judicial custody by the trial Court under section 346(1) of BNSS is not correct, which is illegal, thereby, A7 to 10 have comeup before this Court under section 528 of BNSS, to *set aside* the said remand order as far as A7 to A10 are concerned by separate petitions.

Crl.O.P.(MD)No.20517 of 2026:

10. The important grounds raised are as follows:

(i) The Sessions Judge is not correct in exercising the power vested under section 346 of BNSS, remanding the petitioner to judicial custody, wherein the petitioner was not in custody at the time of passing the impugned order.

(ii) As per the decision of the Hon'ble Supreme Court of India in ***Satender Kumar Antil* v. *Central Bureau of Investigation &Anr***, (2022) 10 SCC 51, the petitioner need not to file a separate application for bail. The remand order on the ground that no separate

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bail application had been filed is contrary to the principles laid down by the Hon'ble Supreme Court.

(iii) The Sessions Judge's remand order is on the strength of omni bus allegation without there being any specific allegation made against the petitioner warranting his custodial detention. The Sessions Judge is not correct in interpreting the order passed in Crl.O.P.(MD) Nos. 5406, 4859, 5191 and 5192 of 2026, by stating that the said order is applicable only to the Chief Judicial Magistrate and not to the Sessions Court. The reasons assigned by the Sessions Judge that the petitioner would tamper the witnesses are unstantainable in law, particularly, when none of the prosecution witnesses has spoken anything about the role played by the petitioner. The Sessions Judge failed to appreciate that the investigation agency did not arrest the petitioner during the course of investigation and having no requirement of custodial interrogation and in the absence of any subsequent developments demonstrating the necessity for custodial interrogation, the remand of the accused is unjustified.

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(iv) The Sessions Judge ought to have seen that the petitioner voluntarily appeared before the Court pursuant to summons, executed a bond under section 91 of BNSS with sureties and thereafter regularly appeared before the Court and there is no apprehension of law absconding or evading the process of law.

(v) The Sessions Judge placed reliance upon the bail rejection order dated 28.08.2026 of this Court passed in the case of A6/Ramachandran without appreciating that the question of custody has to be determined on the individual facts and circumstances of each accused. The said order cannot be authorising automatic incarceration of the petitioner.

(vi) The Sessions Judge failed to strike the necessary balance between the seriousness of the allegations and the petitioner's fundamental right to personal liberty guaranteed under Article 21 of the Constitution of India.

Crl.O.P.(MD)No.21736 of 2026:

11. The important grounds raised are as follows:

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(i) The trial Court failed to follow the protective bond already executed in compliance with order of this Court in Crl.O.P.(MD)No. 5191 of 2026 batch, dated 15.06.2026;

(ii) The remand of the petitioner/A9, who holds valid protection given by this Court is amounting to miscarriage of justice and illegal confinement;

(iii) The remand order of the petitioner/A9 without any specific complaints against regarding influencing witnesses or tampering by the petitioner / A9;

(iv) The other grounds are questioning the validity of the charge framing, for which there is no prayer in the petition and therefore, those grounds are not referred to be tested in this case.

Crl.O.P.(MD)No.22253 of 2026 :

12. The important grounds raised are as follows:

(i) The trial Court failed to appreciate that the petitioner /A7 already executed a bond under section 91 of BNSS and having the said bond does not amount to the grant of bail, as per the decision of the Hon'ble Supreme Court in ***Tarsem Lal* v. *Directorate of Enforcement***, (2024) 7 SCC 61, and taking a contrary decision that

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because no bail had been granted and having the petitioner was never in custody, there was no custody to be continued. The remand order of the trial Court holding that "he was not on bail" and because no bail application had been filed on his behalf, is with the greatest respect contrary to that binding declaration of law;

(ii) The Sessions Judge failed to appreciate the order passed by this Court dated 28.08.2026 in Crl.O.P.(MD) No. 15373 of 2026, that if charges punishable with imprisonment for more than seven years were framed against A7 to A10, the case would fall under Category B of the classification in ***Satender Kumar Antil*** *(supra)*, that the bond under section 91 of BNSS could not be treated as orders granting bail, and that they would be required to seek bail before the competent Court, which shall consider their applications on their own merits. The said observation preserves the jurisdiction of the Sessions Court to consider a bail application on its merits when one is made. It does not authorise the taking into custody of an accused, who has made no application and who was never arrested, and it does not dispense with the requirement, laid down in ***Tarsem Lal*** *(supra);*

(iii) The decision of the Hon'ble Supreme Court in ***Satender***

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Kumar Antil *(supra)* has held at paragraph 89 that "it is only in a case where the accused is either not arrested consciously by the prosecution or arrested and enlarged on bail, there is no need for further arrest at the instance of the Court". The petitioner is squarely within the first limb and the investigation agency consciously refrained from arresting throughout.

Crl.O.P.(MD)No.22762 of 2026 :

13. The important grounds raised are as follows:

(i) The impugned order suffers from non application of mind insofar as it does not sufficiently distinguish between the petitioner/A10's alleged role and the alleged role of Al to A6 in the actual custodial occurrence;

(ii) The trial Court failed to follow the protective bond already executed under section 91 of BNSS in compliance of the order in Crl.O.P.(MD)No.5192 of 2026 batch, dated 15.06.2026. Once it was decided by this Court and thereby, the arrest of the petitioner was precluded by the aforesaid order, he cannot be placed under custody by the trial Court, since the petitioner executed a bond under section 2 (e) of BNSS;

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(iii) The trial Court remanding the petitioner/A10, who holds valid protection given by this Court, is amounting to miscarriage of justice and illegal confinement;

(iv) The remand order under section 346 of BNSS is totally illegal, arbitrary, unwarranted, against the facts and circumstances of the case, hence, the same is liable to be *set aside;*

(v) The trial Court failed to appreciate the object of the execution of bail bond and bond are to secure the presence of the accused for the trial proceedings only. Therefore, without cancelling the bond executed by the petitioner, no order of remand can be passed by the trial Court;

(vi) The trial Court order is liable to be *set aside* for the simple reason that the trial Court was influenced by the order passed by this Court in Crl.O.P. (MD). No. 15373 of 2026, since it is a passing reference only. Thereby, it is nothing but non application of independent judicial mind and hence such order of remand is totally illegal;

(viii) The trial Court ought to have considered that without following the procedure as contemplated under section 492 of BNSS

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no order of remand can be passed unless and until the same is cancelled, which is bad in law to remand the petitioner. The order of remand is illegal, since either the investigation officer or any one of the prosecution witnesses is ever lodged complaint by making allegation against the petitioner;

(x) The reasons adduced by the trial Court as if police protection given to the defacto complainant and other important witnesses was withdrawn is erroneous in law, since no document is filed by any person to substantiate the said allegation.

14. The brief counter filed by the prosecution agency in Crl.O.P.(MD)No.20517 of 2026 is also adopted as the counter in all other three cases and the brief facts are as follows:

14.1. All the Criminal Original Petitions are liable to be dismissed and all the other allegations contained in the respective petitions are denied. The impugned order is not an order passed mechanically of merely because the petitioner did not file any bail application. The trial Court has recorded specific reasons concerning the nature and gravity of the allegations, the status of A7 to 10, who are police personnel, the material witnesses, the apprehension of

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influencing witnesses and the alleged manipulation of police records and the conduct attributed to the accused persons. The trial Judge also recorded the rival submissions raised by the learned counsel for A7 to A10 and by the Public Prosecutor for CBI before passing the remand order. The protection order given by this Court in Crl.O.P(MD) Nos. 4859, 5406, 5191 and 5192 of 2026, dated 15.06.2026 is protection given for appearance before the committal Court alone. Subsequent bail rejection order dated 28.08.2026 passed by this Court in Crl.O.P. (MD) No.15373 of 2026 bail petition filed by A6 / P. Ramachandran, held that if charges punishable with imprisonment for more than seven years are framed against A7 to A10, the bonds executed by them under section 91 of BNSS cannot be treated as orders granting bail and they required to seek bail before the competent Court.

14.2. When the Sessions Judge framed charges against A7 to A10 on 10.09.2026, the legal position was materially different from that which prevailed when the order dated 15.06.2026 was passed at the stage of committal. It did not amount to grant of bail to the petitioners and did not foreclose the jurisdiction of the Sessions Court to independently consider the question of custody after

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framing of charges.

14.3. The Hon'ble Supreme Court in ***Satender Kumar Antil*** *(supra)* classified the offence in four categories and in Category 'B' classified offences punishable with death, imprisonment for life or imprisonment for more than 7 years and provided that, upon appearance pursuant to process, the bail application in Category B / D cases is to be decided on merits. The said judgment does not support the proposition that an accused falling in Category 'B' is entitled to remain outside custody without seeking bail.

14.4. The judgment relied upon by the accused in ***Siddharth* v. *State of Uttar Pradesh*** (2022) 1 SCC 676 and ***Musheer Alam* v. *State of Uttar Pradesh,*** 2025 SCC OnLine SC 116 do not lay down that an accused who was not arrested during investigation acquires an absolute right to remain at liberty irrespective of subsequent developments in the judicial proceedings. The cases in hands stand on a materially different footing inasmuch as the competent Sessions Court has, after hearing the accused and upon considering the material on record, framed charges including offences carrying capital punishment exceeding 7 years and thereafter independently considered the question of custody.

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14.5. The citation referred by the accused in ***Tarsem Lal*** *(supra)* as it makes a clear distinction between a bond for appearance and bail. A bond furnished for securing appearance pursuant to summons does not amount to grant of bail. The petitioners were never granted regular bail pursuant to section 91 of BNSS bond. The order dated 15.06.2026 itself treated the bond as sufficient for appearance at the committal stage; it did not grant bail. The question arising after framing of charges was, therefore, one of custody/bail on merits and not cancellation of an existing regular bail order.

14.6. On considering the materials placed by the prosecution, the trial Judge appreciated and framed charges for major offences and thereby, the present proceedings before this Court cannot be converted into a mini trial on the evidentiary merits of the prosecution case. The other allegations and the facts referred in all the petitions are devoid of merits and the Sessions Judge is required to remand the accused after framing of charges, in terms of the principles laid down by the Hon'ble Supreme Court in ***Satender Kumar Antil*** *(supra).* Therefore, all the Criminal Original Petitions are liable to be dismissed.

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15. The defacto complainant Mr.Naveen Kumar filed an intervening application in Crl.M.P.(MD)No.20363 of 2026 in Crl.O.P.(MD)No.20571 of 2026 with a prayer to allow the intervening petition and dismiss the petition filed by the accused. The said application was allowed by an order dated 24.09.2026.

16. The brief facts set out in the affidavit of the intervenor, Mr. Naveen Kumar, narrates the nature of the case. However, his concern is only with the remand order under consideration, namely, whether the remand order is right or wrong. Therefore, the intervenor is required to confine his challenge to the remand order alone, and brief facts are thus:-

16 (i). The trial Court in its remand order dated 10.09.2026 specifically recorded removing of witness protection and thereby A7 to A10 were taken into custody, otherwise a fair trial cannot be ensured. The challenge by the accused against the remand order dated 10.09.2026 is legally frivolous, contumacious, and barred by the doctrine of coordinate bench judicial discipline. The contention was rejected by this Court, by an order dated 28.08.2026 in Crl.OP(MD) No. 15373 of 2026, where the bail petition filed by A6 / Ramachandran.

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16 (ii). The charge against the petitioners where there is a maximum sentence of death or imprisonment of life and the case facts under the Category B of ***Satender Kumar Antil*** *(supra)* thereby bond executed under section 91 of BNSS cannot be treated as bail and the remand order of the trial Judge is correct. Having the accused never applied for regular bail, thereby, the petitions are not at all made out and are liable to be dismissed.

17. While the argument was taken place all the counsels in the cases submitted that once the defacto complainant intervened in one of the criminal original petitions, the same facts may be taken into consideration in all the criminal original petitions. Thereby, no separate application filed by the defacto complainant and one application is enough to consider the cases on merits.

18. This Court heard Mr.R.Gandhi, learned Senior Advocate, for A8, Mr.T.Lajapathy Roy, learned Senior Advocate for A9, Mr.S.Chellapandian, learned Senior Advocate, for A7, Mr.A.Raja, learned counsel for A10. As far as the prosecution is concerned Mr.N.Mohideen Basha, learned Special Public Prosecutor for CBI argued the case. The *defacto complainant*, who is the brother of the deceased Ajithkumar, has been added as the 11th respondent in a lead

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case in Crl.O.P.(MD)No.20517 of 2026 and Mrs.Nithya Ramakrishnan, learned Senior Advocate and Mr.Henry Patrick Triphange, counsel on record argued the case for the *defacto complainant* at length. The respective learned Senior Advocates and Special Public Prosecutor cited various decisions of this Court as well as the Hon'ble Supreme Court. Their arguments would be considered in an appropriate places of this order infra permitted the records. Considered the submission of both sides.

19. The point for consideration is as to whether the remand order dated 10.09.2026 passed by the trial Court as far as A7 to A10 are concerned illegal and to *set aside*, thereby enabling them to be released from prison and face the trial in the Sessions Case?

20. These cases are challenging remand order of A7 to A10 in a custodial death of Ajith Kumar. The challenge in all criminal original petitions is to *set aside* the remand order dated 10.09.2026 against A7 to A10 on the ground as per the order of this Court dated 01.07.2025, in Crl.O.P.(MD)Nos.17975, 17976, 17949, 18034 and 18035 of 2025 batch cases, the investigation into the custodial death of Ajith Kumar was transferred to CBI for investigation. The CBI investigated the matter and laid a police report against A1 to A6 at

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the first instance. By the subsequent order passed by this Court in the above referred batch of writ petitions, the CBI investigated the matter further and a supplementary charge sheet was filed against A7 to A10 before the Chief Judicial Magistrate, Madurai, which is the committal Court.

21. It is the case of the petitioners in common that during the original investigation A1 to A6 were arrested and remanded to judicial custody initial charge sheet was filed. During the further investigation, the CBI did not arrest the A7 to A10 and filed a supplementary charge-sheet before the Chief Judicial Magistrate, Madurai for the punishment of the offence upto 7 years. The committal Court, on perusal of the supplementary charge sheet and having that A7 to A10 were not arrested during the investigation, issued summons for appearance of A7 to A10.

22. On their appearance, the Chief Judicial Magistrate, Madurai, obtained bond under section 91 of BNSS, for their future appearance. When the accused A7 to A10 have been appearing before the Chief Judicial Magistrate, Madurai, A7 to A10 filed separate petitions before this Court in Crl.O.P.(MD)Nos.4859, 5406, 5191 and 5192 of 2026 for anticipatory bail. This Court by a

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common order dated 15.06.2026, all the anticipatory bail applications were disposed of holding that since A7 to A10 executed bonds under section 91 of BNSS for their further appearance and the same were accepted by the committal Court, they need not be granted anticipatory bail once again.

23. It is the findings of this Court in the above said batch cases, since A7 to A10 appeared before the committal Court on summons and subsequently they executed bonds under section 91 of BNSS for future appearance, it was decided that there was no requirement of anticipatory bail once again. In the said order, paragraph Nos. 21 and 22 are reproduced as follows:

> 21. In view of the above discussions and the judgments of the Hon'ble Supreme Court the bonds already executed by the petitioners before the Committal Court under Section 91 of BNSS is sufficient for their appearance before the committal Court and the committal Court can proceed further for committing the case in accordance with law.
>
> 22. The learned Chief Judicial Magistrate, Madurai is directed not to remand the petitioners to custody while committing the case to the Sessions Court.

24. At the time of passing the said order as per the supplementary charge sheet, the charges levelled against the

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petitioners herein and the punishment prescribed therein was only upto 7 years and not beyond that, wherein the alleged offence as per the supplementary charge in paragraph No.16.16 are under sections 61(2), r/w 127(2), 238 and 337 of BNS – criminal conspiracy, r/w wrongful confinement, causing the disappearance of evidence or giving false information to screen an offender and forgery of court records, public registers, and official government identification documents. All carries maximum punishment upto 7 years.

25. As per the referred batch cases ordered passed on the anticipatory bail applications, the Chief Judicial Magistrate, Madurai, committed the case as against A7 to A10 to the Sessions Court, Madurai and in turn, supplementary charge sheet was also made over to the V Additional Sessions Judge, Madurai, in connection to S.C.No.709 of 2025. The said trial Judge issued summons to A7 to A10, at this juncture, it is recorded that A1 to A6 are in judicial custody and they have been produced before the trial Court on remand warrant. Though A7 to A10 have been appeared before the trial Court on summons issued by the trial Court on 29.07.2026 and engaged Advocates, who filed vakalats, they continued to appear subsequently on 05.08.2026, 13.08.2026,

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21.08.2026, 24.08.2026, 03.09.2026, 09.09.2026 and 10.09.2026, based on their bond executed under section 91 of BNSS before the committal Court of Chief Judicial Magistrate, Madurai.

26. The trial Court framed charges on 10.09.2026 against all the accused of A1 to A10. Though the direct overt act as per the initial charge sheet is against A1 to A5, who caused the death of the deceased Ajith Kumar in a custodial death and A6, who was the driver, drove the vehicle in which the deceased was taken from police station to other place, also added as accused who was aiding the crime, and charges were framed by the trial Court with major offence of murder under section 103(1) of BNS and other offences. Though the investigation agency had comeup with the supplementary charge sheet against A7 to A10, alleging offences punishable with imprisonment upto 7 years, but, the trial Court after appreciating the materials on record, while framing the charges against A7 to A10, framed various charges including the capital punishment of death for murder offence under section 103(1) r/w 49 of BNS and other offences as mentioned in the preceding para of this order.

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27. As per the charges framed by the trial Court, by invoking section 49 of the BNS in relation to the offence of murder under section 103(1) of the BNS, the accused A7 to A10 have abetted the custodial death, as *prima facie* disclosed at the stage of framing of charges. After framing charges against A7 to A10 including A1 to A6, all the accused denied the charges and claimed to be tried.

28. The trial Court assigned reason for framing major charges against A7 to A10, eventhough the prosecution had comeup with the lesser charges with punishment upto 7 years and taking note of the orders passed in Crl.O.P.(MD)Nos.4859 of 2026 batch cases by this Court and the trial Court had come to the conclusion that the direction issued by this Court in the above batch cases that the accused shall not be remanded to custody by the Chief Judicial Magistrate, Madurai, at the stage of committal of the case to the Sessions Court. The trial Court has come to the conclusion that the said order is only for the Chief Judicial Magistrate, Madurai, not to remand and cannot be construed as an order granting bail to A7 to A10.

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29. The trial Court also referred the decision of the Hon'ble Supreme Court in ***Tarsem Lal*** *(supra)*, where it was viewed that an order of the Court accepting bonds under section 88 of Cr.P.C. (section 91 of BNSS) from the accused does not amount to a grant of bail. Thereby, the trial Court had come to the conclusion that the bond executed under section 91 of BNSS does not amount to granting bail. Moreover, the charges against A7 to A10 framed are punishable with the imprisonment for a term exceeding 7 years, which carries maximum punishment of death sentence and it come under Category B offences as per the decision of the Hon'ble Supreme Court in ***Satender Kumar Antil*** (*supra*). The Hon'ble Supreme Court in the said ***Satender Kumar Antil*** (*supra*) held that the bail application of an accused in Category B shall be considered on its own merit.

30. This Court also considered the bail application filed by A6/ Ramachandran in Crl.O.P.(MD)No.15373 of 2026, in which, this Court by an order dated 28.08.2026, has observed that in the event of the trial Court on considering the materials on record, framed charges against the additional accused, viz., A7 to A10 for offence punishable with the imprisonment more than 7 years their

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case would fall under Category B as per the decision of the ***Satender Kumar Antil*** (*supra*). In such eventuality, the bonds executed by them under section 91 of BNSS cannot be treated as orders granting bail and they would be required to seek bail from the competent Court.

31. Taking note of the decisions of ***Satender Kumar Antil*** (*supra*) and ***Tarsem Lal*** (*supra*) and the common order of this Court, particularly, in anticipatory bail petitions filed by A7 to A10, in Crl.O.P.(MD)Nos.4859 of 2026 batch cases, dated 15.06.2026 and the bail application filed by A6/Ramachandran in Crl.O.P. (MD)No.15373 of 2026, dated 28.08.2026, having A7 to A10 have not availed bail for the Category B offences, as per the ***Satender Kumar Antil*** (*supra*) decision, the trial Court after framing charges, had remanded A7 to A10 into judicial custody.

32. The learned counsel for A7 to A10, after framing charges on 10.09.2026 had come to a view that the accused A7 to A10 though appeared several hearing before the trial Court have not chosen to file bail application and taking note of the gravity of the offence, charges have been framed against A7 to A10 the trial Court decided to remand A7 to A10. The learned counsel for A7 to A10 on

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the date of remand i.e. 10.09.2026 after framing charges, as per the impugned order in paragraph No.6, stated that the counsel for A7 to A10 appeared and submitted that they have not filed any bail application, having executed bond under section 91 of BNSS for their appearance. They submitted that though the accused were not on bail, the accused may not be remanded to custody, since they are regularly appeared before the Court and they would not tamper the witness. Further argued that the investigation agency has not taken custody during further investigation and after taking cognizance and after framing charges, the custody may not be required.

33. The trial Court after hearing the learned Special Public Prosecutor, in which, he submitted that the nature and gravity of the allegations, the position held by A7 to A10 and after framing charges with major punishment, the nature of the occurrence and the possibility of influencing witnesses and interfering with the fair conduct of the trial, A7 to A10 are required to be remanded to judicial custody.

34. Taking note of all the aspects, the trial Judge remanded A7 to A10 to the judicial custody on 10.09.2026 by invoking section 346 (1) of BNSS. Against the said remand order of A7 to A10, these

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four petitions filed to *set aside* the remand order and accused may be set at liberty to face the trial before the V Additional Sessions Court, Madurai.

35. Mr.R.Gandhi, learned Senior Advocate, appearing for A8 having touched upon the grounds raised in the petition and submitted that during further investigation, the investigating agency did not arrest A8 and on appearance before the Chief Judicial Magistrate, Madurai, he executed a bond under section 91 of BNSS, though by apprehending arrest, the accused A7 to A10 filed anticipatory bail petition before this Court in a batch of cases referred above and this Court by an order dated 15.06.2026, held that having section 91 of BNSS bond executed before the committal Court, no requirement of granting anticipatory bail and thereby directed the committal Court not to remand A7 to A10, while committing the case to the Sessions Court. Since this Court protected the arrest of the accused A7 to A10, they appeared before the committal Court regularly and the matter was committed to the Sessions Court. Before the trial Court also on receipt of Court summons, the accused A8 (A7, A9 and A10 also) appeared before the trial Court regularly and the Court also adjourned the case in

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some time.

35 (i). He would further submit that though the trial Court has not directed the accused A7 to A10 for further execution of section 91 of BNSS bond, the accused felt that earlier execution of section 91 of BNSS bond before the committal Court is enough based on the observation of this Court in the batch of anticipatory bail filed by A7 to A10. Therefore, they continued to appear even without seeking any bail, that is after surrendering the accused. The said counsel cited ***Tarsem Lal*** *(supra)* to the aspect having section 91 of BNSS bond executed before the committal Court that is enough to proceed the case, where the investigating agency did not arrest the accused during the investigation for interrogation.

35 (ii). He would further submit that though the trial Court framed the charges with the maximum punishment upto death sentence, it is not a ground to remand the accused, where they executed bond under section 91 of BNSS and the same was accepted by this Court in the anticipatory bail application batch order referred above, therefore, the remand order of the trial Judge is erroneous. The decision referred by the said counsel in ***Tarsem Lal*** *(supra)*, in which it held that where the Enforcement Directorate (ED) has not

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arrested an accused under section 19 of the Prevention of Money Laundering Act, 2002 (PMLA) before filing the complaint, the Special Court, upon taking cognizance, should ordinarily issue summons to secure the accused's appearance rather than a warrant. An accused who appears pursuant to summons does not thereby enter custody and need not apply for bail merely to appear before the Court. The Special Court may require the accused to execute a bond under section 88 of the CrPC to ensure attendance, but such a bond is distinct from bail and is not subject to the twin conditions under section 45(1) of the PMLA.

35 (iii). He also relied upon the decision of the Hon'ble Supreme Court in ***Satender Kumar Antil*** *(supra)*, and submitted that in which the trial Court misunderstood the Category B classification. Though Category B offences are punishable with imprisonment for more than seven years, upon the appearance of the accused before the Court pursuant to the process issued, the bail application is required to be decided on its merits. In our case, it is submitted by the said Senior Advocate that the accused executed bond under section 91 of BNSS, therefore, there is no need to file bail application once the charges has been framed even with the

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maximum punishment.

35 (iv). In ***Satender Kumar Antil*** *(supra)* laid down a graded procedure for dealing with accused persons who were not arrested during investigation and co-operated with the investigating agency. For offences punishable with imprisonment of seven years or less falling within Category A, the court should ordinarily issue summons first, followed, if necessary, by a bailable warrant and thereafter a non-bailable warrant, while permitting bail to be considered without insisting on physical custody. Category B, involving offences punishable with death sentence, imprisonment for life or imprisonment exceeding seven years, and Category D, involving economic offences not governed by special enactments, require consideration on their individual merits. Category C, involving special enactments with stringent bail conditions, remains subject to the applicable statutory restrictions.

35 (v). The said Senior Advocate also referred in a case of ***Siddharth*** **v.** ***State of Uttar Pradesh & Anr***, (2022) 1 SCC 676, in which it held that custody in section 170 of Cr.P.C does not necessarily mean police official custody, but, refers to presenting the accused before the Court. Where the accused has co-operated with

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the investigation and the investigating officer has no reason to believe that the accused will abscond or disobey summons, the accused need not be arrested merely to enable the filing of the charge-sheet. The expression "custody" in section 170 of CrPC does not necessarily mean police or judicial custody but refers to presenting the accused before the court. The Court emphasised that personal liberty is an important aspect of Article 21 of the Constitution and that the mere existence of the power to arrest does not justify its routine exercise.

35 (vi). The said Senior Advocate also referred in ***Musheer Alam* v. *State of Uttar Pradesh & Anr***, 2025 SCC OnLine SC 116 to hold that the investigation officer having not arrested the accused during the investigation, and the accused should be directed to appear before the trial Court and furnish bail to its satisfaction rather than being subjected to a formal arrest after completion of the investigation. Further held that where the investigation is complete, the charge-sheet has been filed, the trial court has taken cognizance and issued summons, and the investigating officer did not consider it necessary to arrest the accused during investigation, the accused should be directed to appear before the trial court and furnish bail to

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its satisfaction rather than being subjected to a formal arrest after completion of the investigation. If custodial interrogation was necessary, the investigating officer could have arrested the accused during the investigation itself. The Hon'ble Supreme Court accordingly directed the accused to appear before the CBI Court, Gorakhpur, and furnish bail to its satisfaction.

35 (vii). Yet another decision cited by the learned Senior Advocate in ***Jaildar Singh*** **v.** ***State***, 2022 Supreme OnLine MAD 19221, to the aspect after taking cognizance, where the accused appear before the Court in pursuance to summons, the Court may reasons recorded and where custody is considered necessary for the proper conduct of the inquiry or trial, remand the accused to judicial custody under section 309 (2) of Cr.P.C, without resorting to section 88 of Cr.P.C (section 91 of BNSS). Here, in this case, the accused executed a bond under section 91 of BNSS, therefore, the order of remanding the accused, after framing charges to the judicial custody was not in accordance with the said decision. Alternatively, the court may direct the accused to execute a bond, with or without sureties, under section 88 of CrPC. The choice between remand and execution of a bond lies within the court's discretion, depending on

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the circumstances of the case. Once the accused is remanded under section 309(2) of CrPC, the remedy is to apply for bail in accordance with law.

35 (viii). The said Senior Advocate also cited a decision of the Bombay High Court in ***Santosh Balkrishna Nadgaonkar* v. *State of Maharashtra & Anr***, 2025: BHC-AS:53612-DB, to the aspect when the accused appears during the investigation and before the criminal Court in response to summons he cannot be remanded to judicial custody merely because he has not obtained a bail order.

35 (ix). The Senior Advocate also referred the decision of the Delhi High Court in ***Sharad Kumar* v. *Central Bureau of Investigation***, (2011) 125 DRJ 200 held that an accused charged with a non-bailable offence who appears before the court in response to summons and submits to its jurisdiction comes within the court's control for the purpose of considering bail under section 437 of the Cr.P.C. or section 439 of Cr.P.C., as applicable. If the accused's bail application is rejected after judicial consideration, the court may remand the accused to judicial custody under section 309(2) of Cr.P.C. while adjourning the proceedings. The Court further held that section 88 of Cr.P.C., which empowers the court to

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require a bond for appearance, is discretionary and does not confer an automatic right to release or override the specific provisions governing bail for non-bailable offences.

35 (x). By heavily relying the decision in ***Tarsem Lal*** *(supra)*, the said Senior Advocate submitted that the remand of the accused, even after the framing of charges, was unwarranted and illegal. It was further submitted that there was no evidence to show that A8 had threatened any witness and that the Witness Protection Scheme had not been extended to the material witnesses. In this case, though the trial Judge stated in the impugned order that altogether the accused A7 to A10 had not been provided the Witness Protection Scheme and that there is apprehension of the police officials influencing the witnesses if they were released from jail, such observations are merely based on the assumptions and presumptions of the learned Trial Judge. Therefore, the impugned order is liable to be *set aside* and the petition is to be allowed.

36 (i). Mr. T. Lajapathy Roy, learned Senior Advocate appearing for A9, submitted that, in paragraph No.6 of the impugned order, the learned trial Judge had arrived at a conclusion that A7 to A10 were required to be taken into custody to ensure a

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fair trial, as otherwise, they were likely to tamper with the witnesses or cause harm to them. However, no material whatsoever had been placed either by the prosecution or by the de facto complainant to substantiate such apprehension. Though witness protection was given as to the material witnesses, it was not placed before the trial court. Even the trial court has not called for witness protection order to verify whether the accused has not provided the witness protection or intended to tamper the witness. The impugned order is non-application of mind, wherein the investigation officer has filed a supplementary charge sheet. In paragraph No.16.17 of the further police report the investigation officer had not arrested the accused A7 to A10. Therefore, remanding them to judicial custody after execution of bond of section 91 of BNSS is not warranted. The allegation against the petitioner /A9 is only fabrication of general diary, and for this purpose framing the major charge under section 103 of BNS is not warranted, which amount to non-application of mind by the trial Court.

36 (ii). The said Senior Advocate referred the decision of the Hon'ble Delhi High Court in ***Shahid Yousuf* v. *National Investigation Agency***, 2025 SCC OnLine Del 9449, in which

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section 528 of BNSS is maintainable by challenging the remand order.

36 (iii) . The said Senior Advocate also referred the Hon'ble Supreme Court decision in ***Asian Resurfacing of Road Agency Private Limited*** **v.** ***Central Bureau of Investigation***, (2018) 16 SCC 299, to the aspect of inherent powers of High Court under section 528 of BNSS to challenge the remand order even after framing the charges. There is no quarrel with the decisions cited by the learned counsel for A9 under section 528 of BNSS, the remand order passed by the trial court after framing charges, even under section 346 of BNSS, is maintainable. However, the court has to decide whether the remand of the accused is justified or not.

37 (i). Mr.S.Chellapandian, learned Senior Advocate for A7 substantially adopted the arguments canvassed by the learned counsel for A8. He would submit that A7, who is the Deputy Superintendent of Police was a witness in the original charge sheet. After the supplementary charge sheet was filed on 11.12.2025, A7 appeared before the committal Court and executed a bond under section 91 of BNSS. When the committal Court committed the case to the Sessions Court, A7 appeared before the Sessions Court upon

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receipt of the summons. However, the learned Sessions Judge abruptly remanded A7 to judicial custody after framing charges on 10.09.2026. The said remand is wholly unnecessary and unwarranted.

37 (ii). The said Senior Advocate also touched upon the common order passed by this Court in Crl.O.P.(MD)No.4859 of 2026 batch dated 15.06.2026 in paragraph No.20, wherein this Court has come to the conclusion that once a bond under section 91 of the BNSS had been executed, there was no necessity for the accused to seek anticipatory bail. However, this aspect was not considered by the trial Court. The observation in paragraph Nos.9 and 10 of the impugned order that the accused are not ordinary persons, they are police officials and they attempted to create false entries in the public records with a view to conceal the commission of crime, which are to be tested only during the trial. Therefore, the observation during the remand order is not required.

37 (iii). He would further submit that as stated in Paragraph No. 16.14 of the supplementary charge sheet, the Forensic Science Laboratory (FSL) report does not whisper a word against the petitioner/A7. Therefore, the finding of the learned trial

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Judge that remanding the accused to judicial custody is necessary to prevent him from destroying the CDR details is wholly unwarranted. The said Senior Advocate also referred two decisions cited by A8 counsel in the case of ***Satender Kumar Antil*** *(supra)* and ***Tarsem Lal*** *(supra)*.

38 (i). Mr. A. Raja, learned counsel appearing for A10, advanced his arguments more or less, similar to those canvassed by the three learned Senior Advocates appearing for A8, A9 and A7. His argument further runs into that the remand order dated 10.09.2026 without cancelling the bond executed under section 91 of BNSS is not correct. Though the trial Court has power to remand the accused for judicial custody by using section 346 of BNSS, before that the bond executed under section 91 of BNSS should have been cancelled, in which there is no cancellation in the case in hand.

38 (ii). He further submitted that though the accused has executed a bond under section 91 of BNSS and when the trial Court decided to remand the petitioner on framing charges by using section 346 of BNSS, sufficient time must have been given to the accused, either to approach the higher forum or to surrender before

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the Court and seek regular bail. Without doing so, on remanding the accused on the date of framing charges is not correct so. As per section 492 of BNSS before remanding the accused by using section 346 of BNSS, the trial Court ought to have cancelled the bond executed under section 91 of BNSS, in which there is no such order. Even there was no request from the police or the victim for remanding the accused. Therefore, the remand order against A10 is *non est* in law and, therefore, it has to be *set aside*.

39 (i). Mr. N.Mohideen Basha, the learned Special Public Prosecutor for CBI submitted the arguments of all the petitioners contending that all the petitions are liable to be dismissed, wherein the bond executed under section 91 of BNSS on appearance before the committal Court by the petitioners herein are only protected before the committal Court and not before the Sessions Court, as per the decision of this Court in a batch of cases, where the accused moved the anticipatory bail petitions before this Court in Crl.O.P. (MD)No.4859 of 2026 batch, by a common order dated 15.06.2026. This Court in paragraph Nos.21 and 22 held that the bond under section under section 91 of BNSS is sufficient for their appearance before the committal Court and the committal Court can proceed

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further for committing the case in accordance with law and directed the Chief Judicial Magistrate, Madurai, not to remand the petitioners to custody while committing the case to the Sessions Court. Thereby ,the said order had given protection to the accused herein only upto the stage of committal.

39 (ii). He further submitted that once the matter has been committed and made over to the trial Court and the Sessions Judge has taken the matter and issued summons for appearance of the accused and they ought to have availed bail before the trial Court. Though initially as per the supplementary charge sheet, the charges against the petitioners herein were only upto 7 years punishment charges, thereby, the trial Court accepted the appearance of the accused on summons and proceeded further. Once the trial Court framed charges against the petitioners herein with a grave offence of murder-custodial death with abetment of the commission of offence by the petitioners, which carries a maximum punishment of death sentence, thereby, remanding the accused after framing the charges is rightly done so. Therefore, the contention of the accused counsels that without cancelling bond under section 91 of BNSS, remand is vitiated cannot be accepted.

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39 (iii). He would further submit that the trial Court has power under section 346 (2) of BNSS to remand the accused, considering the trial aspect, and there is no need to cancel the bond under section 91 of BNSS, which is not the bail bond as per ***Tarsem Lal*** (*supra*) cited by the accused herein. Even as per ***Satender Kumar Antil*** (*supra*), when the offence is classified as category B, which carries punishment of more than 7 years, the bond under section 91 of BNSS is not applicable to the punishment more than 7 years and above. Thereby, the accused has to seek bail before the Court concerned. In this case, once the charges have been framed on 10.09.2026, when the Court has given a caution to the accused whether they are ready to avail the bail, without doing so, the learned counsels for the accused argued that the bond under section 91 of BNSS is protected, and, therefore, taking into consideration the entire sequence of events and the inception of the case, the accused cannot be permitted to file a bail application, particularly in view of the apprehension that they may tamper with the witnesses.

39 (iv). He would further submit that during the course of further investigation and until the date of remand, the accused remained at liberty. Though the investigation agency has come up with the

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charges against the petitioners with the maximum punishment of 7 years and on considering the facts of the case, the trial Court framed major charge of section 103(1) r/w 49 of BNS in addition to that other offences. The trial Court has found that the custody of A7 to A10 is just and necessary for the protection of the witnesses and to ensure that the trial proceeds in accordance with the directions issued by this Court. In the absence of any material to disprove the apprehension of witness tampering, the trial Court was justified in remanding the accused to judicial custody. Therefore, there is no adequate reason assigned by the petitioners to *set aside* the same.

39 (v). The learned Special Public Prosecutor submitted that as per ***Satender Kumar Antil*** (supra) case in Category B / D, it was held that on appearance of the accused in Court, pursuant to the process issued, bail application to be decided on merits. The offence categorized the said Court is in Category B, sessions offence punishable with death, imprisonment for life or imprisonment for more than 7 years. Thereby, once the charges have been framed with the maximum punishment of death, which is more than 7 years of punishment, it is the bounden duty of the accused to seek bail after surrender, which was not done so. Therefore, as per the

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decision in ***Satender Kumar Antil*** (supra) case, the remand of the accused is intact.

39 (vi). The learned Special Public Prosecutor also touched upon the ***Tarsem Lal*** (*supra*) case, cited by the accused by referring paragraph No.8 of the judgment in which, the offence therein is under section 4 of PMLA, where the punishment prescribed therein for more than three years, and in view of clause (x) of section 2 of Cr.P.C., the complaint will be treated as a warrant case, while taking cognizance of the offence, the Special Court has the discretion to issue either a summons or warrant, in which the principle of the said decision is not applicable to case involving the death sentence. Though bond under section 91 of BNSS is for appearance of the accused in due course, but as per other decision of the Hon'ble Supreme Court once the Court felt that the charge is major offence, it is mandatory on the part of the accused to seek bail.

39 (vii). The learned Special Public Prosecutor cited the decision of the Hon'ble Supreme Court in ***Pradeep Ram* v. *State of Jharkhand & Anr***, AIR 2019 SC 3193, wherein it was held that the accused was granted bail for the minor offences and later part graver

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offence is added during further investigation, the investigation agency cannot arrest the accused on its own, but, they can arrest after obtaining orders from the concerned Court. Further held that once cognizance has been taken, remand of the accused, who is subsequently arrested during further investigation must be authorized under section 309(2) Cr.P.C rather than section 167 of Cr.P.C. Further held that where an accused has already been granted bail and a graver offence is subsequently added during further investigation, the investigating agency cannot arrest the accused on its own merely because the additional offence has been incorporated. The competent court may, in exercise of its powers under sections 437(5) or 439(2) of Cr.P.C., direct the accused to be arrested and committed to custody, even without formally cancelling the earlier bail order, where the circumstances justify such action.

39 (viii). The Court further held in that decision that, once cognizance has been taken, remand of an accused, who is subsequently arrested during further investigation, must be authorised under section 309(2) of CrPC, as applicable, rather than section 167 of CrPC. The judgment also considered the NIA's authority to take over investigation, conduct further investigation

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and submit a report concerning additional offences. In paragraph No.29 of the above cited case, it was held that taking note of the factual scenario and facts and circumstances of the case, where after grant of bail to an accused, further cognizable and non-bailable offences are added, the accused can surrender and apply for bail for newly added cognizable and non-bailable offences. In the event of refusal of bail, the accused can certainly be arrested.

39 (ix). The learned Special Public Prosecutor cited the decision of the Hon'ble Supreme Court in ***Pankaj Jain* v. *Union of India & Anr,*** (2018) 5 SCC 743, to hold that section 88 of Cr.P.C. (section 91 of BNSS), does not confer an enforceable right on an accused to be released on furnishing a bond merely because the accused was not arrested during the investigation. It is discretion power given to the Court to accept bond under section 91 of BNSS or not. The provision confers a discretionary power on the court to accept a bond, with or without sureties, to secure the appearance of a person before it. The exercise of this discretion depends on the circumstances of the case. Where a non-bailable warrant has already been issued against the accused and proceedings under sections 82 and 83 of Cr.P.C. have been initiated, the accused cannot be treated

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as a free agent appearing voluntarily before the court and cannot claim the benefit of section 88 as a matter of right. Accordingly, the Hon'ble Supreme Court upheld the rejection of the application for release on bond under section 88 of CrPC and dismissed the appeal.

39 (x). The learned Special Public Prosecutor also referred the decision of the Hon'ble Supreme Court in ***State by the Inspector of Police, Chennai*** **v.** ***S.Selvi & Anr***. (2018) 13 SCC 455 to aspect at the time of framing charge, probative value of material on record has to be gone into which proceed on presumption that material produced by prosecution is true but court is not expected to go deep into the matter and hold that material produced does not warrant conviction. Here, the case in hand the trial Court framed charges with maximum punishment of death, which is probative at the time of framing charges, thereby, the contention of the accused that the reason assigned by the trial Court for remanding the accused is not correct so as no fault at all and it has to be rejected.

39 (xi). By summarising his argument, by placing the decisions cited by the accused, the learned Special Public Prosecutor also touched upon the decision referred by A8 counsel in the case of ***Siddharth*** *(supra)*, where this Court co-ordinate Bench held that on

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appearance of the accused, the Court may, for reasons to be recorded and where custody is considered necessary for the proper conduct of the trial, remand the accused to judicial custody under section 309(2) of the Cr.P.C., without resorting to section 88 of the Cr.P.C.

39 (xii). Though the counsel for A8 Mr.R.Gandhi, Senior Advocate, touched upon the said decision that there are two options available to the Court either to accept the bond under section 91 of BNSS or remand the accused to judicial custody under section 346(2) of BNS, but in this case, as per the common order dated 15.06.2026 passed in a batch cases, it is contended by the learned Special Public Prosecutor that the protection order given by this Court in the anticipatory bail application is only upto the committal of the case and not applicable to the trial Court. Though the trial Court issued summons for appearance of A7 to A10 and they appeared even then they did not file any application under section 91 of BNSS for further appearance assurance, but, after framing the charges with major offence of murder charge, the trial Court has given signal that it is going to remand the accused and posed a query whether the accused has availed bail or not. At that time the accused

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ought to have expressed their willingness to furnish bail but failed to file appropriate bail application.

39 (xiii). Finally, the Special Public Prosecutor contended that without doing the same and argued the case, which is not warranted, the interfere of this Court. The contention that the trial Court could not have passed an order of remand on the same day without cancelling the bond executed under section 91 of the BNSS cannot be accepted. The trial Court is empowered to remand the accused under section 346(2) of the BNSS, and the exercise of such power does not warrant interference by this Court. Therefore, the learned Special Public Prosecutor submitted that all the petitions are liable to be dismissed.

40 (i). Mrs. Nithya Ramakrishnan, learned Senior Advocate, connected through Video Conferencing from New Delhi, on behalf of the intervenor, viz., defacto complainant, who is impleaded as R11 in Crl.O.P.(MD)No.20517 of 2026, submitted her argument assisted by Mr.Henry Patrick Tiphange. She contended that there is no need to cancel the remand order passed by the trial Court. The bond under section 91 of BNSS is only protective before the committal Court and not before the Sessions Court, when major

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offence charged carries a punishment of death sentence or imprisonment for life. Therefore, the remand order cannot be *set aside*. When the charge is framed with capital punishment, there is no requirement of cancelling the bond under section 91 of BNSS and the Court can straight away remand the accused, taking note of the facts and circumstances of each case in which the case in hand, where A7 to A10 are police officials, there is every possibility of the accused tampering with the witnesses, particularly as they would be out of bail.

40 (ii). She further contended that as the contention of one of the accused / A10 that the trial Court ought to have cancelled the bond executed under section 91 of the BNSS, resorting to section 492 of the BNSS is not required. Having there is no bail granted to the accused, there is no requirement of further cancelling the bond as per the sections mentioned by the accused. The common order passed by this Court dated 15.06.2026 referred by all concerned is only binding on the Chief Judicial Magistrate and not on the Sessions Judge, wherein, the protection given till the committal of the case and not beyond that. She would further contend that ***Tarsem Lal*** *(supra)* cited by the accused is not applicable to the

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sessions case and it is only applicable to the proceeding under sections 200-202 of Cr.P.C., where it is a private complaint under PMLA Act. Though ***Tarsem Lal*** (*supra*) case says that the bond executed under section 88 is protective only for the minor offence and as per the ***Satender Kumar Antil*** (*supra*) decision, when the offence is classified as Category B, which is more than 7 years punishment, the accused must have avail bail before the concerned Court and having not done so, the remand order is justifiable.

40 (iii). The learned Senior Advocate for the defacto complainant / intervenor referred the Hon'ble Supreme Court decision in ***Niranjan Singh & Anr* v. *Prabhakar Rajaram Kharote & Ors***, (1980) 2 SCC 559, referring that the custody under section 439(1) of Cr.PC means, it includes physical surrender of the accused before the court coupled with submission to its jurisdiction and orders. By citing the above principle, it is contended by the learned Senior Advocate that the submission of the accused in total that the accused was not in judicial custody while remanding the accused by using section 346(2) of BNSS is not correct so. Whenever the chance of appearance before the Court by summons or surrender includes the physical surrender by the accused before the Court and

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the submission is to direction, thereby, the contention of the accused that the accused was not in judicial custody by remanding the accused under section 346 of BNSS cannot out force at all.

40 (iv). The said Senior Advocate referred paragraph No.4 of the decision in ***Niranjan Singh*** (*supra*) case, in which, it says that intimidation by policemen, when they are themselves accused of offences, is not an unknown phenomenon and the judicial process will carry credibility with the community only if it views impartially and with common sense the pros and cons, undeterred by the psychic pressure of police presence as indicates. It was observed in paragraph No.11 of the said reported decision that the accused policemen are entitled to an unprejudiced trial without any bias against the 'uniformed' force which has difficult tasks to perform.

40 (v). The learned Senior Advocate also referred the decision referred by the learned Special Public Prosecutor, in the case of ***Pradeep Ram*** *(supra*) case, by touching certain paragraphs, viz., 11, 12, 18, 19 and 23 and having the accused was not arrested for minor offence during the investigation and after filing the charge sheet, when the Court frames charge of major offence, the bond executed under section 91 of BNSS cannot be used for protection

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for the major offence, thereby the accused must have to seek bail, but in this case no bail application was filed by the accused, even after framing charges. Therefore, as per the decision in ***Satendar Kumar Antil*** *(supra)*, the remand of the accused is in pursuance of section 346(2) of BNSS which is correct and there is no reason to *set aside* the same.

40 (vi). The said Senior Advocate also cited the decision in ***Hamida* v. *Rashid @ Rasheed &Ors***, (2008) 1 SCC 474, in which held that an accused, upon the addition of a serious non-bailable offence, is required to surrender and apply for bail in respect of the newly added offence. The bail granted to the accused prior to the addition of the new non-bailable offence shall not automatically enure to the benefit of the accused insofar as the newly added offence is concerned. Therefore, the accused is required to surrender and obtain bail in respect of the newly added offence to protect himself from arrest. The cited case in ***Hamida*** *(supra)*, the facts reveal that the accused was originally granted bail for the offence under sections 324, 352 and 506 of I.P.C. After that, the victim succumbed to his injuries in the night intervening 16.06.2005/17.06.2005, thereby, the offence was converted into

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section 304 of I.P.C, thereby the accused filed application before the High Court to permit them to remain on the same bail even after conversion of the offence into section 304 of I.P.C. It was allowed by the High Court. Thereafter, the complainant filed a Special Leave Petition before the Hon'ble Supreme Court, in which the Supreme Court allowed the appeal and *set aside* the High Court order and the accused shall be taken into custody forthwith. It will be open to the accused to apply for bail for the offences for which they are charges before the appropriate Court and in accordance with law.

40 (vii). In that cited peculiar case, when the Court framed charge under section 302 r/w 34 of I.P.C against the accused therein, thereafter, approached the High Court under Section 482 of Cr.P.C for the same relief and passed an order favouring the accused therein to remain the accused under section 302 r/w 34 of I.P.C on furnishing sureties and bail bond only on the ground that they were on bail with the offence under section 304 of I.P.C. Those orders also observed to be *set aside* on the same ground, thereby, *set aside* that order, and directed the accused to be taken in the custody.

40 (viii). By citing ***Tarsem Lal*** *(supra)* and ***Satender Kumar Antil*** *(supra)*, the learned Senior Advocate submitted though

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in this case, they executed a bond under section 91 of BNSS, for the offences punishment upto 7 years, when the Court framed charges with major offence of section 103 (1) r/w 49 of BNS with other charges, it is mandatory on the part of the accused to surrender before the Court and seek bail, in which, it was not taken place, thereby the trial Court itself with reasoning order dated 10.09.2026, remanded the accused and the remand order cannot be challenged under the guise of inherent powers of this Court under section 528 of BNSS and the accused may seek bail in the manner known to law before the appropriate Court.

40 (ix). The learned Senior Advocate further contended that the bond under section 91 of BNSS executed is limited only for the purpose of appearing and not limited the powers of Sessions Court to remand the accused for serious offence, where charges framed. She further contended that ***Tarsem Lal*** *(supra)* case cited by one of the accused herein, in which it referred sections 200-205 of Cr.P.C., which is a summon or warrant case on a private complaint and the said reasoning and principles are not applicable to the sessions case which has major sentence of death sentence. She further contended that the bond executed under section 91 of BNSS

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would not stopping the trial Court to remand the accused. The power of remand always remains with the trial Court, even for section 91 of BNSS bond not cancelled. Any liberty granted to the accused in respect of a minor offence cannot automatically extend to the major offence subsequently added, particularly when the charges for the major offence are framed by the trial Court, as per the citations referred by both sides of ***Satender Kumar Antil*** *(supra),* ***Hamida*** *(supra) and* ***Pradeep Ram*** *(supra).* Therefore, this Court, in exercise of its inherent powers under section 528 of the BNSS, should not cancel or *set aside* the order of remand and should direct the accused to approach the appropriate forum for bail.

40 (x). In ***N. Mani* v. *Sangeetha Theatre & Ors***, (2004) 12 SCC 278, held that an order passed by a statutory authority exercising a power legally vested in it does not become invalid merely because the authority has failed to refer to the correct statutory provision or has referred to an incorrect provision of law. If the power exercised by the authority exists under the law and can be traced to a valid statutory source, the omission or incorrect citation of the enabling provision does not, by itself, vitiate the order.

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41. Mr.Henry Patrick Triphange, learned counsel for the intervenor submitted that the facts reveal that though A10 has filed the present petition seeking to *set aside* the order of remand, he has also filed a bail application before the Sessions Court. Having chosen to exercise his right to seek bail before the Sessions Court, he cannot simultaneously challenge the order of remand by invoking the inherent powers of this Court under section 528 of the BNSS. He also placed certain orders passed by the learned Principal Sessions Judge, Sivagangai, under the Witness Protection Scheme, before this Court and submitted that even after passing the witness protection order, the Inspector of Police, Tiruppuvanam Police Station and the Deputy Superintendent of Police, Manamadurai, have not given adequate witness protection and thereby, there is every chance that the police, who are the accused in this case tamper the witness, thereby, the trial Court rightly remanded the accused, after framing charges for major offence. Therefore, the remand order is legal under section 346(2) of BNSS and also the citations referred by the prosecution cited as well as the intervenor. Therefore, he submitted that all the petitions filed by the accused are liable to be dismissed and the petitioners may work out their remedy

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for seeking bail application in an appropriate way.

42. By way of reply, Mr.R.Gandhi, learned Senior Advocate for A8 submitted that the decision of ***Tarsem Lal*** *(supra)* case is applicable to the facts of the case and the principles cited by the prosecution as well as the intervenor in ***Pradeep Ram*** *(supra)* case is not applicable. ***Satender Kumar Antil*** *(supra)* case has to be dealt with in two aspects before and after the charges framed. Therefore, the remand order is not correct, which is unwarranted when the bond under section 91 of BNSS was executed. Therefore, this Court has to interfere and to *set aside* the remand order of the accused concerned.

43. I have considered rival submission of both sides and also perused the records. The challenge in all these petitions are to *set aside* the remand order dated 10.09.2026, remanding the petitioners herein to judicial custody, who are A8, A9, A7 and A10 respectively. All the counsels for the accused in common submitted that the petitioners were not arrested during the further investigation and laid a supplementary charge sheet with a prayer to issue summons to the accused A7 to A10 and try in accordance with law. Having no custodial interrogation sought for by the investigating agency and no arrest was made even for remand, the petitioners

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appeared before the committal Court on summons. Then all the accused executed bond under section 91 of BNSS for their appearance in further. One or the other way, after execution of such bond under section 91 of BNSS, all the accused approached this Court for anticipatory bail, apprehending arrest.

44. This Court by a common order dated 15.06.2026 in Crl.O.P.(MD)No.4859 of 2026 batch, came to the conclusion that once bond under section 91 of BNSS was accepted by the committal Court, they need not be granted anticipatory bail, thereby, anticipatory bail petitions were dismissed by this Court directing the committal Court holding that the bond under section 91 of BNSS is sufficient for appearance before the committal Court and the committal Court can proceed further for committing the case to the Sessions Court in accordance with law. In paragraph No.22 of the common order it was observed that the committal Court is directed not to remand the petitioners to custody while committing the case to the Sessions Court. After the summons received from the trial Court, all the accused appeared before the trial Court and on engaging their counsels, the proceeding was adjourned for some time and finally, the trial Court framed charges against the accused

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A7 to A10 herein and also the original accused A1 to A6 on 10.09.2026. After questioning the accused, the trial Court intended to remand the petitioners herein and heard the arguments.

45. The learned counsel for the accused submitted that when the Court called upon the counsel for the accused whether the accused are entitled to avail bail for the charges framed with the major offence of murder, the learned accused counsels submitted that the bond executed under section 91 of BNSS before the committal Court is enough and the accused would not go for availing the bail, even though their anticipatory bail applications were dismissed by a common order dated 15.06.2026. The trial Court after considering the rulings relied by the accused in specifically, ***Tarsem Lal*** (*supra*) and ***Satender Kumar Antil*** *(supra)* and the decision of this Court in a batch of cases referred above, by a common order dated 15.06.2026 and another bail application filed by A6/ Ramachandran, dismissal order dated 28.08.2026 in Crl.O.P. (MD)No.15373 of 2026, in which this Court observed in the bail dismissal order that after considering materials and records and framing charges against the additional accused, viz., A7 to A10 for the offences punishable with imprisonment for more than 7 years,

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their cases would fall under the Category B as per ***Satender Kumar Antil*** *(supra)* case. In such event, the bonds executed under section 91 of BNSS are cannot be treated as ordering granting bail and they would be seek remedy before the competent Court.

4**6.** The said order passed on the bail application of A6/ Ramachandran is the order passed by this Court to the subject case and the said direction, observation and ratio are applicable to the facts of the present case, unless the said decision was *set aside* by the competent forum in the manner known to law. Further it is not the case of the accused herein, viz., A7 to A10, that they may not aware of the said order, even before the charge was framed on 10.09.2026.

47. In ***Tarsem Lal*** *(supra)*, arose out of a private complaint filed under the Prevention of Money Laundering Act (PMLA). In the course of proceedings under sections 200 to 205 of Cr.P.C, where the punishment under the provision of PMLA carries more than 3 years upto 7 years under section 4 of PMLA. Therefore, the Hon'ble Supreme Court has taken a view that the bond executed under section 91 of BNSS, where the enforcement director did not arrest the accused therein till the filing of the private complaint, thereby on

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summons from the Court, the accused appeared and executed a bond under section 91 of BNSS, has protection of the accused. In the said judgment, the Hon'ble Supreme Court also categorically held in paragraph No.15 bottom holding that the order accepting the bond under section 88 of Cr.P.C from the accused does not amount to grant of bail.

48. In ***Satender Kumar Antil*** *(supra)*, the categories of cases have been classified into four categories, as Categories A, B, C and D. Category A deals with offence punishable with 7 years or less not fell in other category. Category B offence deals with offence punishable with death, imprisonment for life or imprisonment for more than 7 years. Like that, Category C deals with offence punishable under the Special Acts, containing stringent provisions of bail, like NDPS, PC Act, UAPA etc. As far as Category D deals with offence not covered by the Special Acts.

49. Here, the present case falls under Category B. Upon filing the supplementary charge sheet, the prosecution case against A7 to A10 where the offences are punishable with imprisonment upto seven years. In this regard, this Court is of the considered view that the bonds executed by A7 to A10 under section 91 of the BNSS

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may remain in force in respect of the offences covered by the supplementary charge sheet, which carries maximum punishment of seven years. As per the principles laid down in ***Satender Kumar Antil*** *(supra)*, arrest is not ordinarily required in respect of offences punishable with imprisonment of upto seven years, subject to compliance with the applicable legal requirements. It is specifically classified that the offence carried punishment for more than 7 years upto death, it was held by the Hon'ble Supreme Court that on appearance of the accused in Court, pursuant to the process issued, bail application to be decided on merits for the category of B and D offence.

50. Here, in our case, the trial Court issued process, upon receipt of the case made over by the Sessions Court to the accused to appear before it. Though the investigating agency did not arrest A7 to A10 during the investigation, wherein they comeup with the charge which carries punishment upto 7 years as per the decision in ***Arnesh Kumar* v. *State of Bihar & Anr***. (2014) 8 SCC 273, when the punishment for the offence carries upto 7 years a mechanical arrest is not necessary and if at all the investigating officer feels that the arrest is required, even for the punishment of 7 years, there must

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be a specific reason to be recorded in the CD file.

51. It is the view of the Hon'ble Supreme Court as per the decision in ***Arnesh Kumar*** *(supra)* case that the arrest upto 7 years punishment need not be mechanically done, taking note of the legal principles, the investigating officer in this case could not be arrested A7 to A10, during the investigation. Once the charge has been framed by the Sessions Court with the major offence of murder with abetment under section 103 r/w 49 of BNS, at that time, the Court has called upon the accused A7 to A10, whether they intend to file bail application or not. It was incumbent upon the accused counsels, who appeared before the trial Court, to file an appropriate bail application, or they may seek for some time to comeup with bail application by way of surrendering the accused or anticipatory bail before this Court, wherein the earlier anticipatory bail petitions filed by the petitioners were dismissed on the ground that section 91 of BNSS is enough for the committal Court.

52. When the charge is framed with the major punishment of death sentence, as per ***Satender Kumar Antil*** *(supra)*, ***Pradeep Ram*** *(supra)*, ***Pankaj Jain*** *(supra)*, ***Niranjan Singh*** *(supra)*, ***Sumit*** (*supra*), ***Hamida*** (*supra*) and ***Prahlad Singh Bhati*** *(supra)*, the

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accused must have been surrendered before the trial Court and then they have to seek bail, which is not done so by the accused in this case. It is settled law by the Hon'ble Supreme Court that whenever the minor charge is mentioned in the charge sheet or the F.I.R if the accused availed either bail or anticipatory bail for those offence and later part, when the investigating officer has comeup with the major charge, which carries more than 7 years punishment, the earlier bail granted in respect of the lesser offence cannot be construed as extending bail granted to the major offence, and thereby, the accused must have to seek regular bail for the major offence by way of surrendering before the judicial custody.

53. The law is well settled to that aspect and even then the learned counsel for the accused relied upon ***Tarsem Lal*** *(supra)* case, which was in connection to private complaint under the PMLA Act, which carries maximum punishment of 7 years. Even as per the decision in ***Tarsem Lal*** *(supra)* paragraph No.15.4, it was held that the bond executed under section 88 of Cr.P.C (section 91 of BNSS) cannot be equated to the bail bond. If it is so, the bond executed by the accused under section 91 of BNSS cannot be equated to the bail bond for the major offence of murder, when the charge was framed,

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thereby, the accused ought to have been availed bail, which is warranted, which was not done so in these cases. Therefore, considering all the decisions cited before this Court and also the certain decisions considered by the trial Court under the impugned order dated 10.09.2026, taking into consideration that the accused A7 to A10 are police officials, there is every possibility of chance to intimidate the witnesses or tampering the witness. Therefore, considering the gravity and nature of the offence where the accused A7 to A10 have been charged they should have been remanded by the trial Court to judicial custody and accordingly, remanded.

54. The facts reveal that originally A1 to A6 are in judicial custody from the registration of F.I.R. A7 is Deputy Superintendent of Police, A8 is Inspector of Police, A9 and A10 are under the category below to the Sub Inspector. Taking note that the deceased Ajith Kumar was beaten by Special Team under the control of Deputy Superintendent of Police, Manamadurai, who is A7 in this case, murdered the deceased Ajith Kumar as custodial death. Thereby, there may be a connivance of these accused with original accused A1 to A6. Therefore, the trial Court felt that interest of justice and fair trial to be followed, the trial Court remanded A7 to

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A10, after framing the major charge of murder offence.

55. The contention advanced by the learned counsel for the intervenor/defacto complainant, relying upon the decisions referred to above, is that the bond executed under section 91 of the BNSS cannot afford protection to the accused before the Sessions Court once a charge of murder has been added either by the investigating agency or framed by the Court. Once charges for a major offence are framed, the accused is required to surrender before the competent Court and seek bail. However, the accused have failed to do so. Therefore, it is contended by the intervenor counsel that right option to the accused is to approach the bail jurisdiction and not under section 528 of BNSS for using inherent powers of this Court, where an alternative remedy is available to work out before the appropriate forum.

56. Though the accused counsel submitted that by invoking inherent power of this Court under section 528 of BNSS, the remand order be *set aside* which is not disputed by the prosecuting agency as well as the intervenor side counsel, but, once the remand is done and the accused are in judicial custody by the judicial order, the said order cannot be *set aside* under section 528 of BNSS. Whenever an

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order passed by the competent authority is sought to be *set aside*, the appropriate remedy is to approach the appellate forum. In the present case, the accused merely challenging the order of remand under section 528 of BNSS without approaching bail jurisdiction is not correct way. Once the accused have been remanded to judicial custody with a reasoned order, they must work out their remedy before the appropriate forum for bail and cannot seek to have the remand order be *set aside* by invoking the inherent powers of this Court under section 528 of BNSS.

57. The facts reveal that before filing the petition before this Court, A10 already approached the trial Court for bail and the bail application was pending at the time of filing the petition by A10 before this Court. Once A10 approached the competent Court and invoked its jurisdiction by filing a bail application, he cannot be permitted simultaneously to have the order of remand be *set aside*. In this regard, the learned counsel appearing for A10 submitted that the accused has every right to challenge the order of remand while simultaneously seeking bail, even assuming that the order of remand is correct. The said kind of argument in two different aspects cannot be accepted, whereas the accused has to take a decision by election,

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if he wants to challenge the remand order he can do so or else, he may invoke the bail jurisdiction of the competent Court and, after that may approach the higher forum for appropriate relief, rather than invoking the inherent powers of this Court under section 528 of BNSS.

58. When these petitions were moved and pending for consideration, all the accused counsels submitted that the impugned order dated 10.09.2026 may not be stayed, taking note of the previous direction of this Court for expeditious trial. The learned Special Public Prosecutor submitted that the stay of the trial cannot be granted. The Investigating Officer submitted before this Court that the witnesses should not be produced for trial until the disposal of the present matter. The said submission was also recorded by this Court during the course of arguments, particularly in view of the fact that the charges had already been framed.

59. The learned counsel for intervenor / defacto complainant submitted in the intervening application and also by oral that the assurance given by the learned Special Public Prosecutor and the Investigating Officer that they would not produce the witness before the trial Court and the earlier direction of this Court for expeditious

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trial cannot be complied. Therefore, it is the submission of the intervenor that these petitions are liable to be dismissed with a direction to the trial Court to expedite the trial proceedings subject to the petitioners may go for bail remedy before the appropriate forum.

60. On considering the submissions raised by the accused and also the prosecuting agency coupled with the intervenor and the judicial decisions referred by respective counsels extracted in this order, this Court is of the firm view that once the trial Court remanded the accused even after framing charges by using section 346(2) of BNSS, the accused ought to have approach the appropriate Court for seeking bail and cannot seek to challenge the judicial order of remand by invoking the inherent powers of this Court under section 528 of BNSS. This Court is of the firm view that the remand order is intact by taking note where A7 to A10 are police officials with higher rank, viz., Deputy Superintendent of Police, Inspector of Police and below that cadre, they have to approach the competent Court invoking its bail jurisdiction and cannot seek to *set aside* the order of remand by filing the present petitions under the inherent powers of this Court.

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61. It is not the case of the accused that the Court has no power to remand them to judicial custody. If they seek to challenge the remand order passed by the Court concerned, they may work out their remedy in accordance with law before the appropriate forum, rather than seeking to *set aside* the remand order by invoking the inherent jurisdiction of this Court under section 528 of BNSS.

62. All the legal principles and decisions relied upon by both sides operate against the petitioners. Further, as per the decision in ***Satender Kumar Antil*** *(supra)*, once a major offence carrying a punishment of more than seven years is added, the accused must seek bail in respect of the major offence, even if they had already been granted bail in respect of the minor offence. This is also the view of the earlier decision of the Hon'ble Supreme Court in ***Pradeep Ram*** *(supra)*, ***Pankaj Jain*** *(supra)*, ***Niranjan Singh*** *(supra*), ***Sumit*** *(supra)*, ***Hamida*** *(supra)* and ***Prahlad Singh Bhati*** *(supra)* case. Therefore, looking to the facts of the case and submissions narrated above, all the accused submissions and grounds raised in these proceedings do not have any merit. Therefore, all the petitions are liable to be dismissed and accordingly its are dismissed. The Point is answered against the petitioners.

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63. The case records reveal that based on the initial charge sheet, there are 103 witnesses, 102 documents, and 14 articles. As per the supplementary charge sheet, there are 43 witnesses, 21 documents and 35 articles. Altogether, there are 146 witnesses, 123 documents and 49 articles to be placed as evidence in the custodial death case. This Court in an earlier occasion directed the trial Court to complete the trial within a period of 8 months and as per the undertaking given by the Special Public Prosecutor and the Investigating Officer of these cases, the witness is not produced before the trial Court, as the petitioners have approached this Court, and all these petitions are found to be devoid of merit, which are dismissed by a common order, this Court directs the trial court taking note of 146 witnesses, 123 documents and 49 articles to be placed as evidence expedite the trial and dispose the case within a period of nine months from the date of copy of this order. All the accused are directed to co-operate the trial Court to expedite the trial. If the accused adopt any delay in tactics, it is left open to the trial Court to pass appropriate orders based on the circumstances prevailing at the time of examination of the witnesses.

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64. In the result,

(i) Crl.OP(MD)No. 20517 of 2026 is dismissed;

(ii) Crl.OP(MD)No. 21736 of 2026 is dismissed;

(iii) Crl.OP(MD)No. 22253 of 2026 is dismissed;

(iv) Crl.OP(MD)No. 22762 of 2026 is dismissed;

(v) The remand order dated 10.09.2026 made in S.C.No.709 of 2025 against A7 to A10 on the file of the V Additional Sessions Judge, Madurai is hereby confirmed;

(vi) The V Additional Sessions Judge, Madurai, is directed to dispose the case in S.C.No.709 of 2025 within a period of nine months from the date of receipt of a copy of this order; and

(vii) Consequently, connected Miscellaneous Petitions are closed.

04.11.2026

Internet:Yes/No
Index:Yes/No
NCC:Yes/No
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To

1. The V Additional Sessions Judge,
Madurai.

2.The Special Crime -III Branch,
Central Bureau of Investigation (CBI)
New Delhi.

3. The Special Public Prosecutor for CBI Cases,
Madurai Bench of Madras High Court,
Madurai.

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