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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2026

CORAM

THE HON'BLE MR.JUSTICE N.RAMESH

CRL.O.P.No.30694 of 2026

CNR: {HCMA012560962026}

S.Thangappalam (Sengan Thangappalam)

Case QR

..Petitioner

Vs

Securities and Exchange Board of India
A body Corporate Established under the Provisions
of Securities and Exchange Board of India Act,
1992,
Having its Head Office at
SEBI Bhavan,
Plot No.C-4A, G Block,
Bandra Kurla Complex,
Mumbai-400 051.
and Having its Southern Regional Office
at 7 Floor,
Overseas Towers 756-L,
Anna Salai,
Chennai - 600002.
Through its Assistant Manager
Mr.Jayesh Pravin Thakur.

..Respondent

PRAYER: To enlarge the petitioner/Accused No.2, S.Thangappalam, on regular bail in C.C.No.1 of 2022 on the file of the learned Principal Sessions Judge, Chennai pending trial, on such terms and conditions as this Court.

For Petitioner : Mr.Ramaswamy Meyyappan

For Respondent : Mr.ARL.Sundararajan,
Additional Solicitor General
Assisted by Mr.C.Prasanna Venkatesh.

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This is a petition for regular bail under Section 483 of BNSS. The petitioner is the second accused in *C.C. No. 1 of 2022* on the file of the learned Principal Sessions Judge, Chennai, the Designated Special Court under the Securities and Exchange Board of India Act, 1992 (SEBI Act), instituted on the complaint of the Securities and Exchange Board of India under Section 26 of that Act read with Sections 193 and 200 of Cr. P. C, for offences punishable under Sections 24(1) and 24(2) read with Section 27 of the SEBI Act. Each of the two offences carries imprisonment which may extend to ten years, or fine which may extend to twenty-five crore rupees, or both; the offence under Section 24(2) carries a minimum sentence of one month.

2. The case of the prosecution, briefly stated, is this. The first accused, AsurreAgrowtech Limited, of which the petitioner has been the Managing Director since its incorporation, mobilised about Rs.69.30 crores from the public through schemes which the Whole Time Member of SEBI, by final order dated 09.05.2016, held to be a collective investment scheme operated without registration under Section 12(1B) of the SEBI Act read with the SEBI (Collective Investment Schemes) Regulations, 1999, directing the company and its directors, including the petitioner, to wind up the schemes, to refund the

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monies collected with the returns due, and to submit a winding-up and repayment report. The company's appeal was disposed of by the Securities Appellate Tribunal on 06.04.2018 on its statement that it was ready and willing to comply. The refund directions remain uncomplied with; that is the charge under Section 24(2). Recovery Certificate No. 1725 of 2018 was drawn up under Section 28A of the Act on 10.09.2018, and the notice of demand of the same date was received by the petitioner on 12.09.2018. Between 07.12.2018 and 01.02.2019, nine sale deeds were executed by the company, acting through the petitioner, in respect of its lands at Kottachedu Village, Yercaud, which SEBI has since declared void by orders dated 28.05.2021 and 26.07.2021; that dealing with attached property, in contravention of Rule 16 read with Rule 51 of the Second Schedule to the Income-tax Act, 1961, as applied by Section 28A, is the charge under Section 24(1). The complaint cites two witnesses, the complainant officer and the Recovery Officer, and rests on SEBI's own orders and records.

3. The complaint was taken on file on 03.01.2022. The summons issued to the petitioner was returned, the record showing that he had *left his known residence*; the summons served on the third accused on 10.02.2022 went unanswered. A non-bailable warrant was issued against the petitioner — on 24.02.2023, according to both sides, although the trial court's proceedings dated

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16.11.2024, filed by the petitioner himself, record a direction on that date to issue non-bailable warrants against accused 1 and 2, the summons having been returned *"not served as they left without instructions"*. A fresh warrant dated 02.09.2026, addressed to the Inspector of Police, Economic Offences Wing, Salem, was executed on 01.10.2026, when the petitioner presented himself before that officer in compliance with a reporting condition of bail imposed by the Special Court under the TNPID Act in a connected prosecution. He has been in custody since that date — one month as on date. The trial has not commenced; from cognizance until the accused were secured, the case remained at the stage of service of process.

4. Learned counsel for the petitioner made these submissions.

[a] The SEBI Act contains no restriction on the grant of bail; bail is governed by the ordinary principles, and bail is the rule, as held in ***Satender Kumar Antil v. Central Bureau of Investigation*, (2022) 10 SCC 51**, ***Sanjay Chandra v. Central Bureau of Investigation*, (2012) 1 SCC 40** and ***P. Chidambaram v. Directorate of Enforcement*, (2020) 13 SCC 791**.

[b] This is a complaint case; no investigation is pending and no custodial interrogation is possible; the evidence is documentary and in SEBI's custody; the only witnesses cited are two officials, so there is no scope for tampering.

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[c] No summons was ever served on the petitioner, no bailable warrant preceded the non-bailable warrant, and no proclamation under Section 82 of the Code was ever published, contrary to the discipline in ***Inder Mohan Goswami v. State of Uttaranchal*, (2007) 12 SCC 1and *RaghuvanshDewanchand Bhasin v. State of Maharashtra*, (2012) 9 SCC 791**.

[d] Throughout the period the warrant is said to have been pending, the petitioner was in plain sight: he was in judicial custody from 25.07.2023 to 26.10.2023 in Crime No. 3 of 2019, appeared before the Special Court under the TNPID Act, Coimbatore, and from March 2025 reported on the first of every month before the Economic Offences Wing, Salem, where he was arrested while so reporting; he attended a joint meeting with SEBI's Administrator and Recovery Officer on 01.10.2021 and corresponded with SEBI in 2025. A person so placed is not an absconder.

[e] Every asset of the company and its directors stands attached; the original title deeds have been with SEBI since 09.08.2018; the lands are estimated to be worth more than the amount directed to be refunded; the escalation of the dues from Rs.69.30 crores to Rs.147.52 crores comes from SEBI's own heads and not from monies due to investors; and a criminal court is not a forum for recovery.

[f] The sale deeds underlying the charge under Section 24(1) were declared

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void by SEBI itself, so the lands remain subject to the attachment and available.

[g] The petitioner, aged about 46, suffers from a cardiac condition recorded on examination dated 20.03.2026 and requires regular specialist care; he is the sole breadwinner of his family; the proviso to Section 480(1) of the BNSS recognises sickness as a ground.

[h] By an affidavit of undertaking sworn on 28.10.2026, he has committed himself to place before this Court, within twelve weeks of his release, a scheme for settling the claims of verified claimants, to report daily before the Economic Offences Wing, Salem, and to abide by any condition, however strict; in the alternative, he prays that the petition be kept pending and ad-interim bail granted so that the scheme may be placed.

5. Learned counsel for the respondent opposed the petition on the counter affidavit dated 22.10.2026.

[a] the case has instead been recast — the sworn averment of thirty years' continuous residence at Masi-naicken-patty is no longer repeated, and ill-health is raised for the first time on medical records which predate the application before the Sessions Court and were not placed before it.

[b] The summons was sent to the address the petitioner himself furnished — the address in SEBI's proceedings, on the Aadhaar card annexed to this

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petition and in its own cause title — and was returned because he had left it without leaving forwarding particulars; the warrants were never challenged; and even now the petition does not disclose where he resides.

[c] His appearances before the TNPID Special Court and the Economic Offences Wing were in a separate prosecution to which SEBI is not a party; attendance in one case does not discharge the obligation of an accused to appear in another, and recovery correspondence is not a mode of serving criminal process.

[d] His statement that no criminal case other than Crime No. 3 of 2019 is pending against him is not correct: the order dated 26.10.2023 records that he was then also in custody in Crime No. 6 of 2022 of the Economic Offences Wing, Salem, which stands undisclosed, contrary to the requirement of truthful and complete disclosure in ***Kusha Duruka v. State of Odisha*, 2024 INSC 46**.

[e] His versions of repayment cannot be reconciled: Rs.11.74 crores claimed before the Whole Time Member without verifiable proof, an auditor's certificate of Rs.1,71,00,717/- for April 2016 to December 2018, a claim before the TNPID court that Rs.54 crores out of Rs.69 crores had been settled, and the payments to 1,880 verified claimants stated in the company's letter dated 15.07.2025.

[f] The outstanding dues quantified in SEBI's letter dated 23.09.2025 are

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Rs.147,52,14,445/-, apart from returns due to investors; of this, Rs.78,27,16,091.90 is interest on the unpaid principal — misdescribed, by a clerical error which the counter regrets, as recovery and publication cost in the tabular extract before the Sessions Court — and the recovery and publication costs are Rs.10,556/-. Even the petitioner's own estimate of the attached lands falls short of the dues, no valuation report has been produced by him, and attachment is not realisation.

[g] The medical records disclose conditions commonly managed with medication; no record of any medical complaint during custody is produced; any treatment required can be provided by the prison medical authorities.

[h] The respondent does not seek the petitioner's detention for the purpose of recovery; his custody is the consequence of his own non-appearance, and the respondent is ready to proceed with the trial forthwith.

6. I have considered the rival submissions and perused the material placed before me.

7. The SEBI Act interposes no special restriction on the grant of bail, and the petition falls to be decided on the ordinary tests — the nature and gravity of the accusation, the severity of the punishment, the prima facie material, the

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danger of the accused absconding, the likelihood of tampering with the evidence, and the conduct of the accused — as collected in ***Prasanta Kumar Sarkar v. Ashis Chatterjee*, (2010) 14 SCC 496**. An economic offence attracts no rule of refusal, as held in ***P. Chidambaram v. Directorate of Enforcement*** (cited supra).

Equally, in a serious pecuniary offence affecting a large body of investors, the protective factors are weighed as they would be in a grave offence, as held in ***Rakesh Mittal v. Ajay Pal Gupta @ Sonu Chaudhary*, 2026 INSC 161**, where the Supreme Court emphasised that the value of life and liberty extends to the economic well-being of society, and that in offences of a pecuniary nature involving cheating of hard-earned monies, the factors relevant to serious offences must be weighed.

8. I take first the ground that the petitioner is not an absconder. The record on this must be stated both ways. No summons was in fact served on the petitioner; no proclamation under Section 82 of the Code was ever published against him; while the warrant lay unexecuted he spent three months of 2023 in judicial custody in Crime No. 3 of 2019 without being produced in this case on a transit warrant; from March 2025 he reported every month to the Economic Offences Wing, Salem; and the warrant was executed on the day he so reported, once it was addressed to that very officer. ***Inder Mohan Goswami*** and

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RaghuvanshDewanchand Bhasin (both cited supra), which deprecate the issue of a non-bailable warrant as a first resort, do not, however, govern this record: the trial court began with a summons, and the summons failed because the petitioner had left the only address he has ever furnished — the address in SEBI's proceedings, on his Aadhaar card, and in the cause title of this very petition — without intimation to anyone concerned with this case. The warrants were never challenged, and their validity is not a question that arises in a petition for bail. An accused who leaves his own furnished address without informing the court or the complainant cannot complain that the process did not reach him, and his visibility to other authorities in other proceedings did not discharge his duty to be reachable in this one. What the record of his appearances shows is that he is traceable; what it does not show is that his absence from this case for nearly five years is attributable to anyone but himself.

9. Whether an accused who is traceable should nonetheless be denied bail turns on whether his word can be trusted, for bail is an act of trust, and a Court asked to extend it is entitled to ask what became of the trust extended before, as this Court has said in*Ramesh vs State, rep. by Inspector of Police, Crl.O.P. No. 24675 of 2026, dated 10.09.2026*. The petitioner's sworn statements have changed from forum to forum.

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(i) Before the learned Sessions Judge he swore that he had resided at Masi-naicken-patty continuously for over thirty years; confronted with the Village Administrative Officer's certificate recorded in the order dated 04.03.2025, he no longer repeats that averment, and even now the petition discloses no address at which he actually resides — the only address it carries is the one he admits having left.

(ii) His claim of strict compliance with the bail conditions in Crime No. 3 of 2019 sits against the recorded absences between September 2024 and February 2025, which required petitions to condone.

(iii) His figures of repayment have not been reconciled, and I do not attempt the reconciliation, which belongs to the recovery proceedings; what matters at this stage is that they cannot all be true.

(iv) The petition states that apart from Crime No. 3 of 2019 no criminal case is pending against him, while the order dated 26.10.2023 is stated in the counter to record his custody in Crime No. 6 of 2022 of the Economic Offences Wing, Salem — a case the petition does not mention.

The duty of an applicant for bail to make truthful and complete disclosure is settled by ***Kusha Duruka*** (cited supra), and these lapses detract from the credit of the affidavit. The learned Sessions Judge's conclusion that the plea of ignorance of these proceedings is highly improbable was a finding reached on

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this material, and the grant of bail in disregard of prior judicial findings on an accused's conduct has been disapproved in ***Netsity Systems Pvt. Ltd. v. State Govt. of NCT of Delhi*, 2025 INSC 1181**.

10. The attachment of the properties does not carry the petitioner where he needs to go. The respondent does not resist bail in order to recover the dues, and it does not resist bail on an apprehension of tampering — the evidence is documentary and largely in SEBI's own custody; it resists bail on the petitioner's conduct, and it has stated that the statutory recovery process and this prosecution operate in different fields. For the same reason the petitioner cannot pray the attachment in aid: the security of the investors' money, whatever its true measure, answers a different question from whether he will appear and submit to the trial. Whether the dues are Rs.69.30 crores or Rs.147.52 crores, what the escalation comprises, and what the attached lands will realise, are matters for the recovery proceedings under Section 28A of the SEBI Act, and I record no finding on them.

The affidavit of undertaking sworn on 28.10.2026, by which the petitioner commits himself to place a scheme for settling the claims of verified claimants within twelve weeks of his release, is recorded. An undertaking offered to secure bail cannot be made the foundation of the order, and it is not made a condition of anything. The alternative prayer, that the petition be kept

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pending and ad-interim bail granted so that the scheme may be placed, is release on bail by another description and is declined for the same reasons. Nothing in this order prevents the petitioner from pursuing what the affidavit proposes, from custody, through counsel, before SEBI, the Administrator or the Recovery Officer, none of whom requires his liberty for a reconciliation of claims to take place. Whether the execution of the nine sale deeds, since declared void, makes out the offence under Section 24(1), and whether the non-compliance alleged makes out the offence under Section 24(2), are matters of documentary proof at the trial, and I leave them open.

11. The medical records relied on are of 20.03.2026, six months before the arrest, and record mild concentric left ventricular hypertrophy with Grade I diastolic dysfunction and elevated blood pressure, for which medication has been prescribed. No record of any medical complaint during custody is placed before me. On this material the petitioner is not shown to be so sick or infirm as to attract the proviso to Section 480(1) of the BNSS; a direction for his medical care in custody will nonetheless issue. The family circumstances pleaded, while deserving of sympathy, are common to most persons in custody and do not by themselves warrant bail.

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12. The custody is of one month. The decisions on prolonged incarceration, including ***Union of India v. K.A. Najeeb***, (2021) 3 SCC 713, proceed on custody of years with no trial in sight, and have no application to it. The delay of nearly five years since cognizance was spent securing the attendance of the accused, and on the record discussed above that delay lies substantially at the petitioner's own door. Now that he is before the Special Court, the answer to the age of the case is to move the trial, not to begin by releasing an accused whose availability for it is exactly what the record puts in doubt. The complaint cites two witnesses, both officials; the respondent states that it is ready to proceed forthwith; and there is no reason the trial should not conclude swiftly.

13. In the result, this Criminal Original Petition is dismissed, with the following direction:

The learned Principal Sessions Judge, Chennai, the Designated Special Court under the SEBI Act, 1992, shall furnish to the accused the copies required by law within two weeks from the date of receipt of a copy of this order, shall proceed with the case against the accused who are before the court without adjourning it except for reasons to be recorded, and shall

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make every endeavour to conclude the trial within three monthsthereafter. The Superintendent of the prison shall ensure that the petitioner is produced before the trial court on every hearing date, physically or through video conferencing.

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

To

1. The Securities and Exchange Board of India
A body Corporate Established under the Provisions of Securities and Exchange Board of India Act, 1992,
Having its Head Office at
Sebi Bhavan,
Plot No.C-4A, G Block,
Bandra Kurla Complex,
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and Having its southern Regional Office at
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Anna Salai,
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Through its Assistant Manager
Mr.Jayesh Pravin Thakur.

2. The Public Prosecutor, High Court of Madras.

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N.RAMESH, J.

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