

Copy of:-

GOVERNMENT OF TAMIL NADU.

Letter No. Ms.No.600/
Dated: 13.3.1985.

Home Department,
Fort St. George,
MADRAS-600 009.

From

Thiru T. Durairaj, B. Com.,
Deputy Secretary to Government.

To
The Director General of Police, Madras-4.
All the Collectors (except Madras).
The Commissioner of Police, Madras-8.
All Assistant Public Prosecutors in districts.

Sir,

Sub:-CRIMINAL COURTS - Magistrate courts - Bail application
Notice to Assistant Public Prosecutor - views of the
High Court - Communicated - Reg.

Ref:- 1. From the Asst. Public Prosecutor, Grade-I.
Pudukottai Lr.Rc. 51, dt. 7.2.84.
2. From the Registrar, High Court Roc.No.1042/84
dt. 5.2.85.

According to the Manual of Instructions for the Guidance of Magistrates issued by the High Court, Madras the following procedures have to be followed while disposing of bail applications.

- i) In cases of Non-bailable Offences as soon as Bail applications are presented on behalf of the accused, notices have to be issued calling for the objections, if any, to the Station House Offices, if that day is non-Assistant Public Prosecutors' day.
- ii) If that day, in question, is an Assistant Public Prosecutors' day notices on bail applications have to be served on Assistant Public Prosecutor and he should be heard immediately. If the Assistant Public Prosecutor asks for a short time to obtain instructions from Police, the Presiding Officers may grant a reasonable time, not exceeding three days, and the Bail applications should be disposed of as expeditiously as possible.

It has been represented that these rules were framed when one Assistant Public Prosecutor was attending more than one court. The Government in G.O. Ms.No.530, Home, dated 2.3.82 have ordered that there should be one Assistant Public Prosecutor for each criminal court. Consequently, at present each criminal Court is provided with one Assistant Public Prosecutor. In the circumstances, it has been represented that notices on bail applications may be sent to the Assistant Public Prosecutor who are readily available in each court instead of to the Station House Officer and that the Presiding Officers of the Court can pass orders on the petition after

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hearing them. The High Court of Madras was consulted in this regard. The Registrar, High Court, Madras has stated that the instructions relating to grant of bail incorporated in "The Manual of Instructions for the Guidance of the Magistrates", already provide that if the application for bail is presented to the Magistrate on a day when the Assistant Public Prosecutor is in attendance, then he could be heard immediately, in spite of a provision made that whenever an application for bail is made, intimation should be sent to the Station House Officer in charge of the investigation, so as to give him a reasonable opportunity to make his representations to the Magistrate. Hence, in such of those courts where Assistant Public Prosecutors, Grade-II are available, and if they are readily available in Courts on the day when bail applications are moved, then the copies of the applications may be served on them, in which event, there would be no need to forward such applications to the Station House Officer. On such of those occasions, when the services of Assistant Public Prosecutors, Grade-II are not available either due to their absence or on their expressing inability to forward such communications to the Station House Officer, then the existing prescribed procedure of forwarding the concerned bail applications to the Station House Officer in charge of investigation, will have to be adhered to.

2) The Registrar, High Court has therefore, stated that in such of those courts where Assistant Public Prosecutors, Gr. II. have been appointed, the first endeavour to be made, is to serve on them the copies of the bail applications in which event, there will be no need to forward any intimation to the station House Officer, and that only in respect of those matters where there is a inability for one reason or other to serve the intimation on the concerned Assistant Public Prosecutor, Grade-II, intimation has to be sent to the Station House Officers. The Registrar, High Court, has also pointed out that this clarification would not in any way conflict with the instructions would issued in Chapter IX of the "Manual of Instructions for the Guidance of Magistrates" issued by the High Court, Madras.

3) I am to communicate the above views of the High Court for your information and necessary action.

4) The receipt of this letter may be acknowledged.

Yours faithfully,

Sd/- x x x x x

for Deputy Secy. to Govt.

Copy to: The Registrar, High Court,
Madras-104.

/ True copy /