



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-08-2026

CORAM

THE HON'BLE MR.JUSTICE N.RAMESH

CRL OP No. 21841 of 2026

Vignesh S/o.Raju,
No.3/3A, Zakir Hussain 2nd Street,
MGR Street, Chennai - 600 078.

..Petitioner(s)

Vs

State represented by,
The Inspector of Police,
W-26, AWPS Ashok Nagar Police Station,
Chennai. Crime No.11/2026

..Respondent(s)

PRAYER: This criminal original petition filed under Section 528 of BNSS to Set Aside the dismissal order passed by the learned Special Judge Special Court for Exclusive Trial of Cases Under the POCSO Act, at Chennai in CRL.M.P.No.979 of 2026 dated 16.07.2026 in Crime No.11 of 2026 and pass such further or other order as this Honble Court may deem fit and proper and thereby render justice.

For Petitioner(s): Mr.B.S.Manikandan

For Respondent(s): Mr.M.M.I.Khaleel,
Govt.Advocate (Crl.Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody on 12.05.2026 for the alleged offence under Sections 9(1)(n) r/w 10 and 11(3) r/w 12 of POCSO Act and 506(i) IPC in crime No.11 of 2026 on the file of the respondent police, seeks bail.



2.The case of the prosecution is that the petitioner/accused, aged about 45 years, sexually assaulted the victim child, aged about 15 years, for more than once. It is alleged that the petitioner is the uncle of child victim and her mother died and her father is not taking care of her and the child is under the care and custody of her grandmother. Whenever the child victim visits the house of her aunt, the accused committed sexual assault on the child victim. Hence, the complaint was lodged. Based on the complaint, the petitioner was arrested and remanded to judicial custody on 12.05.2026 for the alleged offences under Sections 9 (1)(n) r/w 10 and 11 (3) r/w 12 of POCSO Act and 506(i) IPC.

3.The learned counsel for the petitioner submitted that after the expiry of the statutory period of 60 days i.e. on 13.07.2026, the petitioner filed an application for statutory bail under Section 187(3)(ii) of BNSS vide CrI.M.P.No.979 of 2026 before the trial Court. The trial Court dismissed the petition stating that the charge sheet was filed on 60th day i.e. on 10.07.2026. Hence, this petition for bail has been filed by seeking to set aside the dismissal order dated 16.07.2026 in CrI.M.P.No.979 of 2026 and to release the petitioner on bail.

4.The learned Government Advocate (CrI.side) appearing for the respondent submitted that the respondent has filed a reply stating that the final



report was filed by way of e-filing on 10.07.2026 and acknowledgment has also been received. It is also stated in the reply that, though the final report was filed on 10.07.2026, in the e-Courts, it is displayed as 11.07.2026. The copy of the case status taken from e-Courts and the e-filing submission shows that the charge sheet was filed on 11.07.2026 at 18:27:28 hrs. as the filing date. Therefore, it is submitted on behalf of the respondent that the charge sheet has been filed within 60 days and hence, the petitioner is not entitled to statutory bail.

5. Heard the submissions of both the counsel were considered

6. To clarify the date and time of filing of final report, the trial Court was directed to submit a report in this regard. By letter dated 18.08.2026, the trial Court has submitted the report as follows;

“I submit that the accused Vignesh S/o. Raja was remanded by this Court in Cr.No.11 of 2026 into judicial custody on 12.05.2026 at 18.30 hours. In this case, Charge sheet was filed on 11.07.2026 at 18.27 hrs through e-filing within the statutory period.

In this regard, I submit that the statutory period of 60 days has been calculated from the date of remand with time i.e. 12.05.2026 at 18.30 hrs till date date of charge sheet filed through e-filing i.e. 11.07.2026 at 18.27 hrs.



In the above said case, the charge sheet has been filed within the statutory period.”

WEB COPY

According to the report of the trial Court, the charge sheet was filed on 11.07.2026 at 18.27 hrs through e-filing.

7.It is contended by the learned counsel for the petitioner that 60 days statutory period ends on 10.07.2026 and not on 11.07.2026 and therefore, before 60th day, final report was not filed and therefore, the petitioner is entitled for bail under Section 187(3)(ii) of BNSS. In support of his contention, the learned counsel for the petitioner relied on the judgment of the Hon'ble Supreme Court in the case of ***Enforcement Directorate, Government of India Vs. Kapil Wadhawan & Anr.Etc*** reported in ***2023 LiveLaw (SC) 249***.

8.Now, it is a settled position of law that the period of 60 days or 90 days, as the case may be, under section 187(3) of BNSS (Section 167(2) of Cr.P.C) runs from the date on which the magistrate first authorises remand and that date itself is to be included. It is also a settled proposition that Sections 9 & 10 of General Clauses Act have no application, because the proviso under the BNSS is a complete code in itself. This position was settled by a three Judges Bench of the Hon'ble Supreme Court in the case of in ***Enforcement Directorate, Government of India Vs. Kapil Wadhawan & Anr.Etc.***, reported in ***2023***



LiveLaw (SC) 249, in which, para 50 is as follows

WEB COPY

“50. Since there exists vacuum in the application and details of [Section 167 CrPC](#), we have opted for an interpretation which advances the cause of personal liberty. The accused herein were remanded on 14.05.2020 and as such, the charge sheet ought to have been filed on or before 12.07.2020 (i.e. the sixtieth day). But the same was filed, only on 13.07.2020 which was the 61st day of their custody. Therefore, the right to default bail accrued to the accused persons on 13.07.2020 at 12:00 AM, midnight, onwards. On that very day, the accused filed their default bail applications at 8:53 AM. The ED filed the charge sheet, later in the day, at 11:15 AM. Thus, the default bail Applications were filed well before the charge sheet. In [Ravindran\(supra\)](#) and [Bikramjit \(supra\)](#), which followed the Constitution Bench in [Sanjay Dutt\(supra\)](#) it was rightly held that if the accused persons avail their indefeasible right to default bail before the charge sheet/final report is filed, then such right would not stand frustrated or extinguished by any such subsequent filing. We therefore declare that the stipulated 60/90 day remand period under [Section 167 CrPC](#) ought to be computed from the date when a Magistrate authorizes remand. If the first day of remand is excluded, the remand period, as we notice will extend beyond the permitted 60/90 days’ period resulting in unauthorized detention beyond the period envisaged under [Section 167 CrPC](#). In cases where the chargesheet/final report is filed on or after the 61 st/91st day, the accused in our considered opinion would be entitled



to default bail. In other words, the very moment the stipulated 60/90 day remand period expires, an indefeasible right to default bail accrues to the accused.”

9. On the fact of the case, the accused was remanded on 12.05.2026 at 18.30 hrs. The 60th day therefore fell on 10.07.2026, the charge sheet was filed on 11.07.2026 at 18.27 hrs through e-filing. This was after the expiry of statutory period, entitling the accused to default bail.

10. The earlier decisions of the Hon'ble supreme Court of India also supports the same view for computation from the date of remand, including that date which is held in the case of **Chaganti Satyanarayana and Ors. vs. State of Andhra Pradesh 1986 (3) SCC 141**, the relevant portion is extracted hereunder:

“ the total period of 90 days under Clause (i) and the total period of 60 days under Clause (ii) has to be calculated only from the date of remand and not from the date of arrest.

11. It is the settled proposition of law that if the final report/charge sheet is not filed by end of the 60th /90th day as the case may be the indefeasible right to default a bail accrues at the midnight of 60th /90th day. Subsequent filing of the charge sheet does not extinguish the right of the accused, who has already applied for default bail. No extra day is available merely because the last day is a Sunday or Holiday.



12. On the basis of the above settled proposition of law and applying the same to the present case, I am of the view that the prosecution has not filed the final report/charge sheet within the prescribed period of 60 days. Hence, the petitioner is entitled for default bail. Accordingly, the order dated 16.07.2026 in Crl.M.P.No.979 of 2026 is set aside. The petitioner is directed to be released on bail.

13. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties**, for a like sum to the satisfaction of the **learned Special Judge Special Court for Exclusive Trial of Cases under the POCSO Act at Chennai**, and on further conditions that:

[a] the sureties shall affix their photographs and Left Thumb Impression in the Application for Surety ship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Special Judge shall obtain a copy of any one of the identity proofs to ensure their identity;

[b] the petitioner shall report before the learned **Special Judge Special Court for Exclusive Trial of Cases under the POCSO Act at Chennai**, daily at 10.30 a.m until further orders;



[c] the petitioner shall not abscond either during investigation or trial;

[d] the petitioner shall not tamper with the evidence or witness either during investigation or trial;

[e] On breach of any of the aforementioned conditions, the learned Magistrate/Trial Court is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)13 SCC 283];**

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 of B.N.S.

-08-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

sms

To

1. The learned Special Judge Special Court for Exclusive Trial of Cases Under the POCSO Act, at Chennai.

2.The Inspector of Police,
W-26, AWPS Ashok Nagar Police Station,
Chennai. Crime No.11/2026.

3.Central Prison, Puzhal – II.

4.The public Prosecutor
High Court, Madras.



WEB COPY

CRL OP No. 21841 of 2



N.RAMESH, J.

sms

CRL OP No. 21841 of 2026

18-08-2026