



Crl.A(MD)No.331 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :21.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.A(MD)No.331 of 2025

M.Senthil Kumar

... Appellant

Vs

1.State of Tamil Nadu

Represented by

The Deputy Superintendent of Police,
Puliyangudi Sub Division,
Tenkasi District.

2.The Inspector of Police,
All Women Police Station,
Puliyangudi Police Station,
Tenkasi District.
Crime No.1 of 2025.

3.Muthujyanthi

... Respondents

PRAYER: Appeal filed under Section 378 of the Criminal Procedure Code, to call for the records relating to the impugned order passed in Crl.M.P.No.260 of 2025, dated 05.03.2025, on the file of the learned Principal Sessions Judge, Tenkasi and set aside the same as illegal and arbitrary and enlarge the appellant/accused No.2 in Crime No.1 of 2025, on the file of the first respondent on bail.

For Appellant : Mr.V.Kathirvelu, Senior Counsel

For R1 & R2 : Mr.A.S.Abdul Kalam Asad
Government Advocate

R3 : Party in person



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J U D G M E N T

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This appellant/ A2 in Crime No.1 of 2025, was arrested by respondent police on 30.01.2025, for the offence under Sections 5(a)(i) & 6 of POCSO Act and 137(2), 142, 144(1), 115(2) of BNS and 3(1)(r), 3(2)(va) of SC and ST Act. The bail application filed by this appellant before the Sessions Court, Theni in Cr.MP No.260 of 2025 was taken up by the learned Sessions Judge, along with the application filed by the accused 1 & 3 in Crime No.1 of 2025 and all of them were dismissed by a common order, dated 05.03.2025. As against the order passed by the learned Sessions Judge, rejecting the bail application of this appellant, this Criminal Appeal is filed.

2. Since the case has been registered for the offence under Sections 3(1)(r), 3(2)(va) of SC and ST Act, as against this appellant, this Court, by its order, dated 17.03.2025 has ordered notice to the defacto complainant and the defacto complainant is also present before this Court.

3.The learned senior counsel appearing for the appellant submits that the first accused had some issues with the Inspector of Police, Sivagiri. He was said to have circulated a video, as if there are corruptions in the Sivagiri Police Station and on account of that, an action was taken as against the first accused and the Inspector of Police, Sivagiri Police Station. According to the learned senior counsel, since A1 has defamed the reputation of Sivagiri Police among the public, this case has been foisted



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as against A1, A3 and this appellant is also added as an accused that this appellant and A3 have assisted A1 in the circulation of video. The learned senior counsel by referring the First Information Report registered in Crime No.1 of 2025 submits that even according to the defacto complainant, she is 19 years old. However, to make out a case under the POCSO Act, it was projected that this incident was taken place when she was 17 years and 9 months. Even as per the First Information Report, this appellant was standing outside the pump set room, wherein A1 has abused this victim girl. The learned senior counsel by referring to the orders of the Sessions Court and submits that the learned Session judge has mechanically rejected the bail application filed by this appellant, by taking note of the statement made by the victim. He further submits that this appellant is a police constable and he is in jail from 30.01.2025.

4.The learned Government Advocate appearing for the respondents 1 & 2 submits that this appellant was present all along with the accused No.1 at the time of commission of offence and therefore, according to him, he had a knowledge about the commission of offence. There is a specific allegation and his presence in the occurrence place was mentioned by the defacto complainant.

5.The defacto complainant is present before this Court. This Court has verified with the defacto complainant. She submits that if this appellant is released on bail,



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then he may harass her. The defacto complainant is not aware that by which accused, this appeal is filed. The narration made by defacto complainant creates an impression that she has been tutored in such a manner to make such a statement. The defacto complainant is not in a position to explain the reasons for her apprehension and the role played by the appellant in the commission of offence. After perusing the First Information Report, this Court has posed a question to the Defacto complainant as to where she was working at the time of occurrence. She was not in a position to answer immediately and after few minutes, she made a statement that she was working in NIMS hospital and thereafter changed her statement that she was working in Radha Dental Clinic. When this Court has verified whether she is a qualified nurse, she claims that she has attended certain training programme in that clinic.

6.This Court is not confident with the narration made by the defacto complainant. This Court is of the view that the investigation in this case has not been conducted in a proper manner and therefore this Court directs the Additional Superintendent of Police, Tenkasi to monitor the investigation in this case and find out the truth.

7.In view of the above observations and considering the facts and circumstances of this case, this Court is inclined to release the appellant on bail.

8. Accordingly, this Criminal Appeal is allowed and the order passed by the



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learned Principal Sessions Judge, Tenkasi in Crl.M.P.No.260 of 2025, dated 05.03.2025, is hereby set aside. The appellant is ordered to be released on bail on the following conditions:-

- i) The appellant shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand) with two sureties each for a like sum to the satisfaction of the learned Principal Sessions Judge, Tenkasi.
- ii) The appellant and the sureties shall submit a copy of their Aadhaar Card or any other identity card issued by the Government in proof of their residence address;
- iii) The appellant shall appear before the respondent police as and when required by the respondent police.
- iv) The appellant shall not misuse the liberty granted to him by indulging in any further offence and shall not tamper with the prosecution witnesses. The appellant shall co-operate for the investigation.
- v) On violation of any of the above conditions by the appellant, the respondent police shall move an application for cancellation of the bail.

sd/-

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21/03/2025

Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

vrn

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TO
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1 THE PRINCIPAL SESSIONS JUDGE, TENKASI.

2 THE DEPUTY SUPERINTENDENT OF POLICE, PULIYANGUDI SUB DIVISION,
TENKASI DISTRICT.

3 THE ADDITIONAL SUPERINTENDENT OF POLICE, TENKASI.

4 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION,
PULIANGUDI POLICE STATION, TENKASI DISTRICT.

5 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI,
TIRUNELVELI.

6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to MR.K.PRABHU Advocate SR.No.19025[F] Dated 21/03/2025

ORDER
IN

CRL A(MD) No.331 of 2025

Date :21/03/2025

RS/IT/SAR-(21.03.2025) 6P 8C

Madurai Bench of Madras High Court is issuing
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