



CrI.O.P(MD)No.11837 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on : 30.07.2025

Pronounced on : 13.08.2025

PRESENT

THE HONOURABLE MR.JUSTICE P.VADAMALAI

CrI.O.P(MD)No.11837 of 2025

1.Sankar

2.Vignesh

...Petitioners/ Accused Nos.1 & 2

Vs.

State of Tamil Nadu through
The Inspector of Police,
All Women Police Station,
Thirupparankundram P.S,
Madurai.

(Crime No.25 of 2023)

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, to enlarge the accused on bail in Spl.S.C.No.20 of 2024 on the file of the Special Court for Cases under POCSO Act, Madurai.

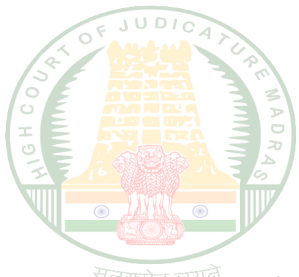
For Petitioners : Mr.Ananda Padmanabhan
Senior Counsel
for M/s.APN Law Associates

For Respondent : Mr.B.Thanga Aravindh
Government Advocate (Crl.side)

ORDER

The petitioners seek bail in connection with the case in Spl.S.C.No.20 of 2024 on the file of the Special Court for Cases under POCSO Act, Madurai relating to Crime No.25 of 2023 of respondent police.

2. The case of the prosecution is that the defacto complainant is doing facial and mehanthi work. On the date of occurrence, i.e., on 24.12.2023, the first petitioner



CrI.O.P(MD)No.11837 of 2025

WEB COPY

called the defacto complainant, who is aged about 17 years, over phone and invited her to his house for doing mehanthi work to his wife for celebrating Christmas. Believing his words, she went to the first petitioner's house, but his wife was not there. At that time, the petitioners were intoxicated and committed the alleged offence. Hence, the case.

3. The learned counsel for the petitioners submitted that this is the fifth application. Earlier bail applications were dismissed by this Court on 17.04.2024, 11.06.2024, 03.09.2024 and 18.10.2024, respectively. In the FIR, it is stated that the occurrence date was 24.12.2023 and the defacto complainant's date of birth was 28.01.2006, i.e. 17 years at the time of occurrence. But there is no unimpeachable document has been produced on the side of the prosecution to prove her age. The medical expert also admitted to the fact that when there is no authentic record pertaining to the age of the victim, the person should be subjected to ossification test. In this case, even the ossification test to determine the age of the victim has not been performed. He would further submit that the earlier bail application, dated 18.10.2024, was dismissed by this Court on the ground that PW1 was not cross examined and now he enclosed the deposition of cross examination of PW1 and deposition of PW20 – Medical Witness in the additional typed set of papers. As per cross examination of PW1, the fact that the defacto complainant's age may be above



Crl.O.P(MD)No.11837 of 2025

18 years.
WEB COPY

He would further submit that PW20 - Doctor, in his chief examination, stated that there was no external injury or symptoms. Now the cross examination of the defacto complainant is over and at the time of occurrence, she was above 18 years, so the POCSO Act would not attract. The petitioners are in judicial custody for more than 1 year and 6 months and hence, he seek bail.

4. The learned Government Advocate (Crl.side) appearing for the respondent police submitted that three months prior to the occurrence, the first petitioner and his wife went to the beauty parlour, where the victim girl was working and the first petitioner's wife received the phone number from the victim girl. Subsequently, on the date of occurrence, the first petitioner called the victim girl to come to his home for doing mehanthi work to his wife. Believing his words, she went to the first petitioner's house, and the second petitioner was also there. At that time, the petitioners were intoxicated and they compelled the victim girl and committed penetrative sexual assault upon the victim girl. He would further submit that PW1 was cross examined and the next hearing date for cross examination of PW2/mother of the victim and PW3/father of the victim stands posted to 05.08.2025. This is the fifth bail application. Earlier bail applications were dismissed by this Court on 17.04.2024, 11.06.2024, 03.09.2024 and 18.10.2024, respectively. Hence, he strongly objected to grant bail to the petitioners.



Crl.O.P(MD)No.11837 of 2025

WEB COPY

5. Heard and perused available records. It is seen from the records that this is the fifth application for bail, and the petitioners' earlier applications were dismissed. The petitioners now submitted that the main prosecution witnesses, namely the alleged victim girl/P.W.1 and the doctor/PW.20, were cross examined on the petitioners' side. It is the main contention of the petitioners that the age of the victim girl is not 17 years, she is more than 18 years, as per cross examination of PW1 and also the same is revealed from the evidence of P.W.20 - doctor. The said contention could not be decided in this bail petition. The 4th bail petition in Crl.O.P.(MD) No.16430 of 2024 was dismissed by this Court on the ground that the main witnesses were not cross examined. Now the victim girl as well as the medical officers were cross examined. As per doctor's evidence, the victim girl stated to her as attempted rape and though the hymen not intact, she stated that there was no fresh injury. The petitioners have submitted that the prosecution side is taking more time for completion of the prosecution and the petitioners are in judicial custody for the past one year and 10 months. The Hon'ble Supreme Court held in **Rabi Prakash /v/ State of Odisha** reported in **2023 Live Law (SC) 533**, that the prolonged incarceration generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution. The legal principle "bail is the rule and jail is the exception" emphasized that pre-trial detention should be the exception, not the norm.



CrI.O.P(MD)No.11837 of 2025

WEB COPY

Imprisonment before a conviction should be reserved for cases where there are strong reasons to believe the accused might abscond, tamper with evidence or pose a threat to public safety.

6. In this case main witnesses were cross examined by the petitioners' side. Also, the prosecution has not put forth submission that the petitioners might tamper with the other evidences or might abscond in case of release on bail. The petitioners are in judicial custody for nearly one year and ten months. Main witnesses, the victim and medical officers were fully cross examined. Therefore, considering the above facts and circumstances and also considering the incarceration period, this Court is inclined to grant bail to the petitioners with conditions.

7. Accordingly, the petitioners are ordered to be released on bail on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Madurai, and on further condition that: (a) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Madurai may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(b) The petitioners shall furnish their residential address and



CrI.O.P(MD)No.11837 of 2025

WEB COPY

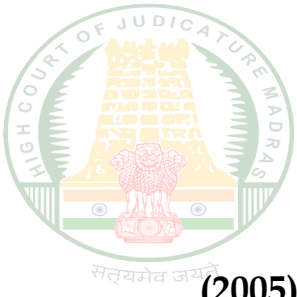
contact number to the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Madurai. If the petitioners change their residential address, they shall report the same to the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Madurai;

(c) On release, the petitioners shall appear and sign before the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Madurai daily at 10.00 a.m. on all hearing dates.

(d) The petitioners shall not abscond and shall cooperate for the trial;

(e) The petitioners shall not tamper the witnesses;

(f) On breach of any of the aforesaid conditions, the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Madurai is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and and if there is any violation of condition, the Investigation Officer is within his discretion to approach the Court of the learned Judicial Magistrate, concerned for cancellation of bail as per the ruling of the Hon'ble Supreme Court reported in **P.K.Shaji/Vs/State of Kerala,**



CrI.O.P(MD)No.11837 of 2025

(2005) AIR S.C.W.5560 and;

WEB COPY

(g) if the accused/petitioners thereafter abscond, a fresh FIR
can be registered under Section 269 of BNS, 2023.

sd/-

13/08/2025

/ TRUE COPY /

13/08/2025

Sub-Assistant Registrar

Madurai Bench of Madras High Court,
Madurai - 625 023.

vsd
TO

- 1 THE SESSIONS JUDGE, SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT, MADURAI.
- 2 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- 3 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, THIRUPPARANKUNDRAM POLICE STATION, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.APN LAW ASSOCIATES, Advocate (SR-8754[I] dated 13/08/2025)

ORDER

IN

CRL OP(MD) No.11837 of 2025

Date :13/08/2025

NBF/SAR- /13/08/2025/ 7P/6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023

7/7