

Crl.A.(MD)No.793 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.08.2025

CORAM :

THE HONOURABLE **DR. JUSTICE R.N.MANJULA**

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Rabik Mohamed @ Rabeek Mohamed ... Appellant/Accused No. 2

vs.

1. The Deputy Superintendent of Police,
Thirumangalam Town,
Madurai.

2.State of Tamil Nadu through
The Inspector of Police,
Thirumangalam Town Police Station,
Madurai
Crime No.80 of 2025

... Respondents 1 and
2 /Complainants

3.Asai Ponnu

... 3rd Respondent/ Defacto
Complainant

Prayer : Criminal Appeal filed under Section 14 A(2) of Scheduled Caste/
Scheduled Tribes Act, 1989 as amended by Act 1 of 2016 to call for the
records relating to the order dated 17.06.2025 made in Crl.M.P.No.110 of
2025 on the file of the learned III Additional District and Sessions Judge
(FAC), Madurai, and set aside the same and grant bail to the appellants.

For Appellant : Mr.M.Venkatesan

For Respondents 1 and 2
: Mr.K.Gnanasekaran
Government Advocate (crl.side)

For R3 : Appeared in person



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JUDGMENT

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This Criminal Appeal has been filed to set aside the order made in Crl.M.P.No.110 of 2025 dated 17.06.2025 on the file of the learned III Additional District and Sessions Judge (FAC), Madurai, and enlarge the appellant/Accused No.2 on bail in Crime No.80 of 2025 on the file of the second respondent police.

2. According to the prosecution, the appellant is said to have committed the offences under Sections 333, 296(b), 324(4), 115(2), 118(1), 103, 351(3), of BNS r/w Section 4 of TNPHW Act and Section (r/w 3(1)(r), 3(1)(s), 3(2)(v)(a) SC/ST POA Act, 1989.

3. The case of the prosecution is that there was a land dispute between the deceased and the accused party and all the three accused armed with knife and pestle and attacked the deceased, the Village Administrative Officer by name, Muthu Pandi at his residence and left from the place of occurrence believing that he has already died. But the victim was taken to the Government Rajaji Hospital, Madurai and on the complaint lodged by his wife, a case was registered. Since the said Muthu Pandi succumbed to the injuries while he was taken for treatment to the hospital, the case was



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further altered into Sections 333, 296(b), 324(4), 115(2), 118(1), 103, 351(3), of BNS Act r/w Section 4 of TNPHW Act and Section (r/w 3(1)(r), 3(1)(s), 3(2)(v)(a) SC/ST POA Act, 1989.

4. The learned counsel for the appellant submitted that the petitioner filed a bail application in Crl.M.P.No.110 of 2025 on the file of the learned III Additional District and Sessions Judge (FAC), Madurai and the same was dismissed. Challenging the said order, the appellant filed this appeal.

5. The learned counsel for the appellant submitted that the third accused has already been released on bail and the appellant/A2 has been in judicial custody for more than 146 days and so far, charge sheet is not filed. Even during the earlier occasion, the prosecution sought further time for completing the investigation, but, till now investigation has not been completed. He also submitted that the appellant is entitled to statutory bail under Section 193 of BNS Act and he may be enlarged on bail.

6. The learned Government Advocate (Crl.side) appearing for the State would submit that the investigation is in crucial stage and the same is going to be completed as expeditiously and charge sheet will be laid shortly and before that, if the accused is released on bail, he might abscond.



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7. The defacto complainant/R3 appeared in person. On enquiry, she made her oral objection stating that juvenile accused/A3 has already been released on bail and that itself causes threat in the mind of her children, who had witnessed the occurrence. She apprehends further threat in case the appellant/A2 is also released on bail. She had stated that her husband has been brutally killed and that disturbed the children.

8. I gave my anxious consideration to the submissions made on either side and carefully perused the materials available on record.

9. The very same objection was raised before this Court by the prosecution when the accused had filed his bail application before the Sessions Judge. Though prosecution has raised serious objection about the releasing the appellant/A2 on bail, charge sheet has not been filed within the statutory time limit. Failure of the prosecution to file charge sheet within statutory time will entitle the accused to get statutory bail in view of Section 193 of BNSS Act.

10. Considering the facts and circumstances of the case, this Court is of the view that although the investigation is still pending, releasing the appellant on bail will not prejudice the investigation. A major part of the



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investigation has already been completed. The accused is said to be having permanent residence. Considering the overall circumstances surrounding the occurrence, I feel that the appellant/ accused No.2 can be released on bail with certain conditions:

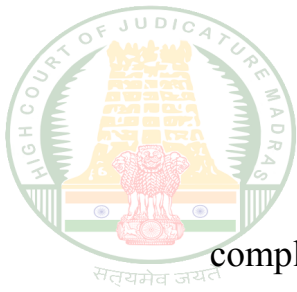
11. Accordingly, this Criminal Appeal is allowed and the order dated 17.06.2025 made in Crl.M.P.No.110 of 2025 on the file of the learned III Additional District and Sessions Judge (FAC), Madurai, is set aside. The appellant is ordered to be released on bail on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the learned III Additional District and Sessions Judge (FAC), Madurai, and on further conditions that:

(a) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Viralimalai Police Station, Pudukkottai District, may obtain a copy of their valid identity card to ensure their identity.

(b) the appellant shall appear and sign before the Inspector of Police, Town Police Station, Salem, daily at 10.30 a.m., until further orders.

(c) the appellant shall not tamper with evidence or witnesses, during investigation or trial.

d)The appellant shall not come into the vicinity of the defacto



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complainant and her children and intimidate them.

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(e) the appellant shall co-operate with the investigation.

(f) On breach of any of the aforesaid conditions, the learned Sessions Court is entitled to take appropriate action against the appellant in accordance with law as if the conditions have been imposed and the appellant released on bail by the learned Sessions Judge/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005) AIR SCW 5560]**.

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

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Index : Yes/No

NCC : Yes/No.

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To

- 1.The III Additional District and Sessions Judge (FAC),
Madurai,
2. The Deputy Superintendent of Police,
Thirumangalam Town,
Madurai.
- 3.The Inspector of Police,
Thirumangalam Town Police Station,
Madurai.
Crime No.80 of 2025
4. The learned Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The Superintendent,
Central Prison, Madurai.



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DR.R.N.MANJULA, J.,

CM

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