

CRL.A(MD).No. 1057 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 14.10.2025

Delivered on : 17.10.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.A(MD).No. 1057 of 2025

T.Elavarasan

: Appellant

Vs.

1.The State of Tamil Nadu
rep.by the Deputy Superintendent of Police,
Tiruchirappalli District.

2.The Inspector of Police,
Thiruverumbur Police Station,
Tiruchirappalli District.

3.Prasath

: Respondents

Prayer : This Criminal Appeal is filed under Section 14-A of the Schedule Caste and the Schedule Tribes (Prevention of Atrocities) Act 2015, to call for the records of the order passed in Crl.M.P.No.4247 of 2025 on the file of the learned I Additional District and Sessions Judge (PCR), Tiruchirappalli and set aside the same and pleased to grant bail to the appellant/A2 in Crime No.884 of 2025 on the file of the second respondent police.



CRL.A(MD).No. 1057 of 2025

WEB COPY

For Appellant : Mr.N.Murali Kumaran, Senior Counsel,
for Mr.B.Natarajan.

For Respondents : Mr.K.Gnanasekaran,
Government Advocate (Criminal Side)
for R1 and R2.

: Mr.R.Baskaran, Senior Counsel,
for Mr.K.R.Kishore Ram, for R3.

JUDGMENT

This Criminal Appeal is directed against the order passed in Crl.M.P.No.4247 of 2025, dated 29.09.2025, on the file of the learned I Additional District and Sessions Judge (PCR), Tiruchirappalli, in dismissing the petition for bail filed under Section 483 of BNSS.

2. The appellant is the second accused in Crime No.884 of 2025 on the file of the respondent Police for the offences under Section 106(1) of BNS, Section 9 of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013 r/w Section 3(1)(k) of SC/ST Act.

3. The case of the prosecution is that M/s.Subbayya Constructions Private Limited, Chennai was entrusted with the work of construction and



CRL.A(MD).No. 1057 of 2025

operation and maintenance of under ground sewerage system; that on 22.09.2025 at Thiruverumbur Muthunagar Garmelgarden First Street, the site in charge Elavarasan, the appellant herein under the supervision of the company Manager Kandasamy/A1 had engaged two persons namely Prabhu and Ravi for cleaning the manhole; that the Fire and Rescue Service personnel came to be spot and recovered the bodies of the said Ravi and Prabhu and that the complainant came to know that the accused had engaged the deceased persons without affording safety appliances and without following safety measures and hence, they are responsible for the death of the contract workers. On the basis of the complaint given by the third respondent, who is the Junior Engineer of the Trichy City Corporation, FIR came to be registered.

4.It is not in dispute that the appellant was arrested on 22.09.2025 on the date of occurrence itself and is in judicial custody till now. It is also not in dispute that the first accused moved an application for anticipatory bail before this Court and obtained interim order not to arrest till the next hearing date.

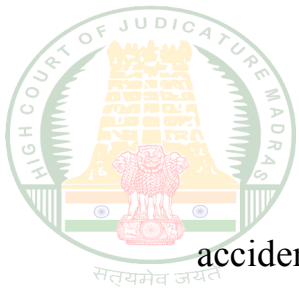


CRL.A(MD).No. 1057 of 2025

WEB COPY

5.The appellant moved an application seeking bail in CrI.M.P.No. 4247 of 2025 under Section 483 of BNSS and the learned Sessions Judge, upon perusing the materials available on record and on hearing the arguments of both the sides, passed the impugned order, dated 29.09.2025, dismissing the bail petition. Aggrieved by the order of dismissal, the second accused has preferred the present appeal.

6. The learned Senior counsel appearing for the appellant would mainly contend that the deceased persons were not employed by M/s.Subbayya Constructions Pvt.Ltd., and they were the contract workers of the Tiruchirappalli Corporation; that the appellant is working under the supervision of Project in charge D.Kandasamy in the company which entered into contract with Trichy City Corporation for construction of underground sewerage system; that the said Project was completed and handed over to the Trichy Corporation by the original contractor for cleaning debris dumped in the manhole and sewer lines by the Trichy City Corporation road and drain contractor in order to carry out the trial run; that the Corporation was clearing the blockage in the sewer with the help of Jet-rodding machines and at that time one of the deceased persons



CRL.A(MD).No. 1057 of 2025

accidentally fell into the manhole and another victim, who attempted to lift him by holding his hair, also fell into the pit; that the defacto complainant, who was present in the occurrence place and other Corporation officials are solely responsible for the incident, but the Corporation officials in order to escape foisted a false case against the accused; that the appellant is innocent and is noway connected with the alleged incident and that therefore, the appellant may be enlarged on bail.

7. The first respondent has filed counter affidavit raising objections. The learned Government Advocate (Criminal Side) appearing for the State would submit that two contract sanitation workers died of asphyxiation while cleaning an underground sewer; that the appellant being Manager of the said Company has to offer prior security and precautionary safety measures to their employees (ie., deceased victims) before letting them to clean the sewerage, but due to their negligent act of not following the safety measurements as prescribed by the Government and standing procedures laid by the Trichy City Corporation, two lives were lost ; that the investigation is at the earlier stage and if the petitioner is granted bail at this crucial stage, it will cause serious prejudice to the investigation and that therefore, the appeal is to be dismissed.

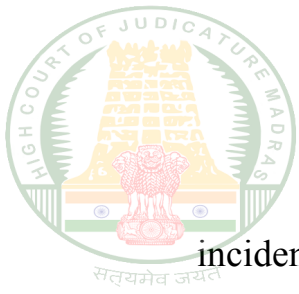


CRL.A(MD).No. 1057 of 2025

WEB COPY

8. The third respondent defacto complainant has filed counter affidavit stating that the appellant under the supervision of D.Kandasamy, Project-in-charge of M/s.Subbayya Construction Pvt.Ltd., had undertaken the trial run of UGSS situated in Zone 3 and while undertaking the said work at a manhole in Carmelgarden, two sanitary workers namely Ravi and Prabhy employed under M/s.Subbayya Construction Pvt.Ltd., were let inside the said manhole without informing the Tiruchirappalli City Corporation or M/s.Shah Technical Consultants Pvt.Ltd., who were engaged for overseeing the works carried out by M/s.Subbayya Construction Pvt.Ltd., and in the process both of them died; that Trichy City Corporation, as per Prohibition of Employment as Manual Scavengers and their Rehabilitation Act has paid a sum of Rs.30,00,000/- to the family of the deceased Ravi and no compensation has been paid to the other victim, since there are no legal heirs identified till date.

9. The learned Senior Counsel appearing for the third respondent Corporation would submit that the deceased were never employed by the Corporation and are contract workers under the M/s.Subbayya Construction Pvt.Ltd., and since the accused were responsible for the



CRL.A(MD).No. 1057 of 2025

incident, FIR came to be registered against them and that in view of the agitation made by the public at that time, the Corporation was constrained to pay compensation as per the provisions of Prohibition of Employment as Manual Scavengers and their Rehabilitation Act and they are at liberty to recover the same from the said company.

10.The learned Senior counsel appearing for the appellant would submit that the prosecution before the Sessions Court has admitted that the deceased were their contract workers; that the appellant's company has already completed the project and handed over the same to the Trichy City Corporation; that the accused were not at all present in the occurrence place at that time and that the corporation officials, who were only responsible for the incident in order to escape, through the third respondent lodged a false complaint as if the accused were responsible for the incident.

11. The learned Senior counsel for the appellant would contend that in the impugned order, the learned Sessions Judge while narrating the case of the prosecution has referred their stand that both were employed as contract workers by the Trichy City Corporation. The learned Senior



CRL.A(MD).No. 1057 of 2025

counsel appearing for the third respondent would point out that in the appeal memorandum, the appellant has stated that “ the deceased worker is a temporary employee, who used to work for the construction company for daily wages and attends to work only on call basis”.

12. But according to the learned Senior counsel appearing for the appellant, the learned trial Judge, in the next sentence, has referred the prosecution stand that “ Trichy City Corporation after taking over the project to clean the sewerage engaged the deceased for the said purpose.” The learned Senior counsel for the complainant would submit that in the impugned order, the learned Sessions Judge while narrating the case of the appellant has stated that “the Project Manager of the company ie., the petitioner had sent a letter to the defacto complainant stating that they urgently required one labourer to clean the manhole and had no personnel available”.

13. Admittedly, the prosecution has not produced any material to establish that the deceased persons were employees of the said company. Considering the rival contentions, further investigation is warranted to determine the employers of the deceased persons and the persons responsible for the incident.



CRL.A(MD).No. 1057 of 2025

WEB COPY

14. Notably, the offence under Section 106(1) of the BNS, which mirrors Section 304A of the IPC, pertains to causing death by rash or negligent acts not amounting to culpable homicide and is bailable.

15. Section 7 of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013, contemplates that no person, local authority, or agency shall engage or employ, either directly or indirectly, any person for hazardous cleaning of a sewer or septic tank. Section 9 of said Act provides punishment for the first contravention of Section 7 with imprisonment for a term, which may extend to two years or with fine, which may extend to Rs.2 lakhs or with both and for any subsequent contravention, imprisonment which may extend to five years or with fine, which may extend Rs.5 lakhs or with both. No doubt, as per Section 22 of the said Act, every offence under the said Act shall be cognizable and non bailable.

16. Section 3(1)(j) of SC/ST (PoA) Act contemplates that whoever, not being a member of a Scheduled Caste or Scheduled Tribe, makes a member of a Scheduled Caste or Scheduled Tribe to do manual



CRL.A(MD).No. 1057 of 2025

scavenging or employs or permits their employment for such a purpose, shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to five years and fine.

17. The main complaint of the prosecution is that the appellant failed to adhere to requisite safety measures. Moreover, according to the learned Government Advocate (Criminal Side), the appellant is not having any previous case or bad antecedents. Considering the above facts and circumstances, nature of charges levelled, period of incarceration and also the fact that the appellant is not having any bad antecedents, this Court is inclined to enlarge the appellant on bail, by setting aside the order, dated 29.09.2025 made in Crl.M.P.No.4247 of 2025 on the file of the learned I Additional District and Sessions Judge (PCR), Tiruchirappalli.

18. Accordingly, the Criminal Appeal is allowed and the order, dated 29.09.2025 made in Crl.M.P.No.4247 of 2025 on the file of the learned I Additional District and Sessions Judge (PCR), Tiruchirappalli, 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 I Additional



CRL.A(MD).No. 1057 of 2025

District and Sessions Judge (PCR), Tiruchirappalli, and on further conditions that:

(a) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned I Additional District and Sessions Judge (PCR), Tiruchirappalli, may obtain a copy of their valid identity card to ensure their identity.

(b) the appellant shall stay at Nagercoil and report before the Inspector of Police, Vadasery Police Station, daily at 10.30 am, until further orders.

(c) the appellant shall not tamper with evidence or witness either during investigation or trial.

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

(e) On breach of any of the aforesaid conditions, the learned Magistrate/Trial 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 Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.



CRL.A(MD).No. 1057 of 2025

WEB COPY [f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

17.10.2025

das

To

- 1.The I Additional District and Sessions Judge (PCR),
Tiruchirappalli.
- 2.The Deputy Superintendent of Police,
Tiruchirappalli District.
- 3.The Inspector of Police,
Thiruverumbur Police Station,
Tiruchirappalli District.
- 4.The Inspector of Police,
Vadasery Police Station, Nagercoil.
- 5.The Superintendent of Prison,
Central Prison, Trichy.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 7.The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court,
Madurai.



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CRL.A(MD).No. 1057 of 2025

K.MURALI SHANKAR,J.

das

Pre-delivery order made in
CRL.A(MD).No. 1057 of 2025

17.10.2025