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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-11-2026

CORAM

THE HON'BLE MR.JUSTICE N.RAMESH

CRL OP No. 31329 of 2026

CNR: {HCMA012495962026}

V.Nagarajan
S/o Venkatesan,
No.13, Irular Colony,
Agoor, Tiruttani Taluk,
Thiruvallur District.

Case QR

..Petitioner(s)

Vs

The State Rep. by, The Inspector of Police
Ooty Town West Police Station,
The Nilgiris.
Crime No.106 of 2026.

..Respondent(s)

PRAYER : Criminal Original Petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, to enlarge the petitioner on bail in Crime No.106 of 2026 pending investigation on the file of the Inspector of Police, Ooty Town West Police Station, The Nilgiris

For Petitioner(s): Mr.V.Karthikeyan

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

ORDER

1. This is a petition for regular bail under Section 483 of the BNSS. The petitioner is the accused in Crime No. 106 of 2026 on the file of the Inspector of Police, Ooty Town West Police Station, The Nilgiris. The crime was registered on 08.08.2026 on a report that a girl was missing, and was later altered to one for offences under Sections 5(l) read with 6 of the Protection of Children from Sexual

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Offences Act, 2012 and Section 137(2) of the BNS. The gravest of them, Section 6 of the Act, carries rigorous imprisonment for not less than twenty years, which may extend to imprisonment for the remainder of the offender's natural life, or death. This is his second petition before this Court.

2. The case of the prosecution, briefly stated, is this. The victim child, then aged fifteen, came to know the petitioner, then aged about twenty, through Instagram. On 08.08.2026 she left her home at Udhagamandalam, met him at Coimbatore and went with him to his house in Tiruttani. According to the alteration report, he took her away by persuasion, without the consent of her parents, and had sexual intercourse with her twice against her will. The police traced them on 14.08.2026. The petitioner was arrested and remanded the same day, and has been in custody for two months and twenty-seven days.

3. His application for bail, Crl.M.P. No. 1750 of 2026, was dismissed by the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Udhagamandalam on 24.08.2026, on the view that the act could not be treated as a consensual relationship. I dismissed his first petition before this Court, Crl.O.P. No. 28259 of 2026, on 01.10.2026. At that hearing the learned Government Advocate (Crl. Side) produced the statement of the victim child recorded under Section 183 of the BNSS and submitted that the petitioner, knowing that she was fifteen, had forcible sexual intercourse with her. The petition was dismissed on the gravity of the offences, the age of the victim child and the pendency of the investigation.

4. Learned counsel for the petitioner made these submissions.

[a] The petitioner and the victim child were in a relationship, and she went with him of her own accord; there was no kidnapping.

[b] The alteration report rests on a confession said to have been made by the petitioner to the police, which is inadmissible.

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[c] The grounds of his arrest were not communicated to him or to his family.

[d] The earlier refusal rested on the presumption under Section 29 of the Act, which does not operate at the stage of bail.

[e] Reliance is placed on the order of this Court in Crl.O.P. No. 232 of 2021, dated 27.01.2021; on a circular of the Director General of Police dated 03.12.2022 against hasty arrests of young persons in romantic relationships; and on the recent judgment of the Supreme Court commending a close-in-age exception to the Act.

[f] The petitioner is a college student, has been in custody since 14.08.2026, and will abide by any condition that may be imposed.

The learned Government Advocate (Crl. Side) opposed the petition.

5. I have considered the rival submissions and perused the material placed before me.

6. The statement of the victim child was recorded by the learned Judicial Magistrate, Additional Mahila Court, Udhagamandalam on 18.08.2026, and a certified copy is now before me. The victim child says that she told her parents of the relationship on 06.08.2026 and was beaten for it. On 08.08.2026, while her parents were at work, she took her clothes and left home by bus. The petitioner was waiting for her at Coimbatore, and they reached his house the same night. His parents told him to send her home, and she refused. On one day during the week she stayed there, when no one else was in the house, they had sexual intercourse once, *"with the consent of both of us, without compulsion from anyone"* (translated from Tamil). The alteration report speaks of two occasions and of force. Which of the two accounts is true is a matter for the trial, and I record no finding on it.

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7. **Consent of a child below eighteen is no answer to a charge under the Act, and nothing in this order suggests otherwise**. The question at the stage of bail is a different one. The ages of the victim and the accused and the gap between them, the relationship between them, the access the accused has to the victim, whether the act alleged involved threat or violence, and whether there was tacit approval in fact though not consent in law.

8. In **State of Uttar Pradesh v. Anurudh**, 2026 INSC 47 : 2026 SCC OnLine SC 40, the Supreme Court took note, in paragraph 19, of the concern repeatedly expressed by High Courts that the Act is being invoked by families against relationships between young people, and of the factors set out by the Allahabad High Court, among them that the statement of the victim be given due consideration in deciding bail. Bail has been granted on that footing in **Sahil v. State NCT of Delhi**, 2024 SCC OnLine Del 5523 and in **Jayantibhai Babubhai Alani v. State of Gujarat**, 2018 SCC OnLine Guj 1223.

9. Measured by those considerations, the victim child was fifteen and the petitioner about twenty, a gap of under five years. He is not related to her and has no access to her household. His home is in Thiruvallur District and hers is at Udhagamandalam. In her own account there was no threat and no force, and she left home after her parents beat her over the relationship. She has given her statement before a Magistrate, and the risk that she will be pressed to alter it can be met by conditions. Nothing placed before me shows any previous case against the petitioner. The offence carries a heavy minimum sentence, and I have kept that in view.

10. Section 193(2) of the BNSS requires the investigation of an offence under Section 4 or Section 6 of the Act to be completed within two months from the date on which the information was recorded by the officer in charge of the police station. That period ran out in October 2026. Nothing placed before me

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shows whether the final report has been filed. If it has, the investigation is over. If it has not, the respondent has overrun the period the statute fixes, and that delay is no reason to keep the petitioner in custody.

11. **In the result, this Criminal Original Petition is allowed and 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 each**, for a like sum to the satisfaction of the **learned Principal District Judge, Tiruvallur,** 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 Magistrate shall obtain a copy of any one of the identity proofs to ensure their identity;

[b] the petitioner shall report before the respondent police 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];**

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

12-11-2026

DRL

Note:

1. Registry is directed to forthwith upload this order in the Official Website of this Court.

2. All concerned to act on this order being uploaded in Official Website of this Court without insisting on certified hard copies. To be noted, this order when uploaded in the official website of this Court will be watermarked and will also have a QR code.

To

1.The Principal District Judge,
Tiruvallur.

2. The Inspector of Police
Ooty Town West Police Station,
The Nilgiris.

3.The Superintendent,
Sub Jail, Ooty.

4.The Public Prosecutor,
High Court, Madras.

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N.RAMESH, J.

DRL

CRL OP No. 31329 of 2026

12-11-2026

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