



CRL A(MD). No.559 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 29.06.2026

CORAM

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

CRL A(MD)No.559 of 2026

Suresh @ Utchimakali

... Appellant

Vs.

1.The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli District.

2.S.Muthukumar

3.The Assistant Commissioner of Police,
Palayamkottai Division,
Tirunelveli City.

... Respondents

(R2 is impleaded vide order of this Court dated 29.06.2026 in CrI.M.P. (MD)No.12290 of 2026 in this appeal)

(R3 is *suo motu* impleaded vide order of this Court dated 29.06.2026 in this appeal)

Prayer:

Appeal filed under Section 14-A(2) of SC/ST (POA) Amendment Act, 2015, to set aside the order passed by the learned Sessions Judge, Special Court for trial of cases registered under SC/ST (POA) Act, 1989, Tirunelveli, in Cr.M.P.No.239 of 2026, dated 30.04.2026 and enlarge the appellant on bail in connection with Criminal Case in Spl.S.C.No.75 of 2024 in Crime No.302 of 2024.



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For Appellant : Mr.J.Arul Prakash

For Respondents : Mrs.V.Moushica,
Government Advocate (Crl. Side)
for R1 & R3
Mr.C.Mayilvahana Rajendran
for R2

JUDGMENT

The appellant, who is arrayed as A12 in S.C.No.75 of 2024, was arrested on 06.06.2024 in connection with Crime No.302 of 2024 on the file of the first respondent Police. He was enlarged on bail by the learned II Additional District Judge (PCR), Tirunelveli, by order dated 14.10.2024 in Cr.M.P.No.3328 of 2024, subject to the conditions that he shall reside in Perambalur District and appear before the Maruvathur Police Station, Cuddalore, daily at 09.00 a.m. and 05.00 p.m.

2. Since the appellant failed to comply with the conditions imposed by the Trial Court, the Assistant Commissioner of Police, Palayamkottai Division, Tirunelveli City, filed an application seeking cancellation of the bail granted to him. The Trial Court, by order dated 09.09.2025 in Cr.M.P.No.149 of 2025, cancelled the bail granted to the appellant and issued a Non-Bailable Warrant against him.

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3. Pursuant thereto, the appellant was secured by the Police on 06.02.2026 and has been in judicial custody thereafter. His subsequent application seeking bail in Cr.M.P.No.239 of 2026 was dismissed by the Trial Court on 30.04.2026. Aggrieved by the said order, the appellant preferred the present appeal before the Vacation Court. By order dated 07.05.2026, the learned Vacation Judge granted bail to the appellant. However, the said order was passed without ascertaining whether notice, as contemplated under the provisions of the SC/ST (POA) Act, had been served on the defacto complainant. Aggrieved thereby, the defacto complainant preferred Criminal Appeal No.2964 of 2026 before the Hon'ble Supreme Court. By judgment dated 29.05.2026, the Hon'ble Supreme Court allowed the appeal, directed the appellant/accused to surrender on or before 10.06.2026, and remanded the matter to this Court for fresh consideration. Accordingly, the present appeal is once again listed before this Court for hearing.

4. It is reported that the appellant surrendered before the Trial Court on 09.06.2026 pursuant to the directions issued by the Hon'ble Supreme Court.



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5.1. The learned counsel appearing for the appellant submits that the appellant has been arrayed as an accused on the allegation that he had conspired with the other accused and prevented outsiders from entering the hotel where the occurrence had taken place. He further submits that similarly placed accused have already been granted bail by this Court and, therefore, the appellant is also entitled to the same relief.

5.2. The learned counsel further submits that, after the appellant was originally enlarged on bail by the Trial Court, the respondent Police attempted to foist a false case against him and, owing to the said apprehension, he could not comply with the bail conditions. According to the learned counsel, the non-compliance was neither wilful nor intentional.

5.3. With regard to the antecedents, the learned counsel submits that in Crime No.207 of 2019 registered by the Tirunelveli Junction Police Station, all the other accused have been acquitted, while the proceedings against the appellant are pending before the Juvenile Justice Board. Insofar as the remaining cases are concerned, it was submitted



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that they have been falsely foisted against the appellant and are pending trial.

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5.4. The respondent Police has also raised a contention that the appellant attempted to tamper with the witnesses. However, according to the learned counsel, there are no materials to substantiate the said allegation. However, the Hon'ble Supreme Court has considered the same and cancelled the bail granted to the appellant.

5.5. The learned counsel further submits that the appellant was in custody from 06.06.2024 till 19.02.2025, thereafter from 06.02.2026 till 26.05.2026, and again from 09.06.2026 till date. Since the investigation has been completed and the final report has already been filed, the appellant may now be considered for grant of bail.

6. The appellant has filed the present appeal seeking grant of bail without impleading the defacto complainant as a party. The defacto complainant/second respondent has preferred an appeal before the Hon'ble Supreme Court on the sole ground that bail has been granted by



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this Court during the Vacation without affording him an opportunity of hearing. Even after the orders passed by the Hon'ble Supreme Court, the appellant did not take steps to implead the defacto complainant. Therefore, by order dated 24.06.2026, this Court permitted the appellant to file an appropriate application to implead the defacto complainant. In the meantime, the defacto complainant entered appearance in this appeal and has also filed his written objections.

7. The learned Government Advocate appearing for the respondents 1 and 3 submits that the appellant is a habitual offender and is involved in six other criminal cases. She has also furnished the details of the cases registered against the appellant.

8. The learned counsel appearing for the second respondent/defacto complainant points out that the appellant has not only failed to implead the defacto complainant as a party to the appeal, but had also omitted to implead the Assistant Commissioner of Police, Palayamkottai Sub-Division, Tirunelveli City, as a party to this appeal.



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9. In view of the above submission, the Assistant Commissioner of Police, Palayamkottai Sub-Division, Tirunelveli City, is *suo motu* impleaded as the third respondent in this appeal. Mrs.V.Moushica, learned Government Advocate, takes notice for the newly impleaded third respondent.

10. The learned counsel appearing for the second respondent/defacto complainant further submits that the appellant failed to comply with the conditions imposed by the Trial Court while granting bail. Consequently, a Non-Bailable Warrant was issued against him and he was subsequently secured by the Police. According to the learned counsel, the explanation now offered by the appellant, that the respondent Police attempted to foist a false case against him, is wholly untenable, since he had never approached the Trial Court seeking modification of the bail conditions on that ground. Therefore, it was submitted that such an explanation cannot be accepted, particularly in view of the conduct of the appellant and his involvement in other criminal cases.



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11. This Court has considered the rival submissions made on either side and perused the materials available on record.

12. The appellant was initially arrested on 06.06.2024 in connection with Crime No.302 of 2024 on the file of the first respondent Police. He was enlarged on bail by the Trial Court on 14.10.2024 subject to certain conditions. Admittedly, the appellant failed to comply with the said conditions. The explanation now offered by the appellant is that he could not comply with the conditions since the respondent Police attempted to foist a false case against him. However, as rightly pointed out by the learned counsel appearing for the second respondent/defacto complainant, the appellant has not filed any application before the Trial Court seeking modification of the bail conditions on the said ground. He simply failed to comply with the conditions imposed. Therefore, the Trial Court rightly cancelled the bail granted to the appellant by order dated 09.09.2025 and he was again secured on 06.02.2026.

13. Thereafter, the bail application filed by the appellant in Cr.M.P.No.239 of 2026 was dismissed by the Trial Court on 30.04.2026.



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Challenging the same, the appellant preferred the present appeal before the Vacation Court. By order dated 07.05.2026, taking into consideration the period of incarceration undergone by the appellant, this Court granted bail to him. However, while passing the said order, the fact that the defacto complainant has not been impleaded as a party, as required under the provisions of the SC/ST (POA) Act, was not brought to the notice of this Court. Aggrieved thereby, the defacto complainant preferred Criminal Appeal No.2964 of 2026 before the Hon'ble Supreme Court. By order dated 29.05.2026, the Hon'ble Supreme Court observed as under:-

"11. Be that as it may, in our view, when the allegations were that the second respondent had been tampering with the witnesses, the High Court before setting aside the order of the learned Additional Sessions Judge ought to have considered that aspect even though it was not specifically taken as a ground to cancel bail as the learned Additional Sessions Judge deemed it appropriate to cancel the bail bonds on non-fulfillment of one of the conditions.

12. For the above reason, we deem it appropriate to set aside the impugned order passed by the High Court and restore Criminal Appeal No. 559/2026 of the second



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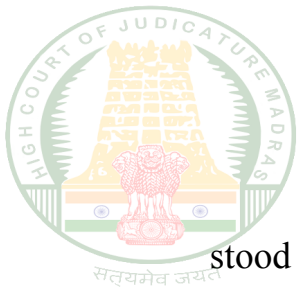
respondent to its original number for a fresh consideration in accordance with law after giving opportunity of hearing to all parties concerned. While deciding the appeal The High Court shall consider whether there exists any material to form an opinion that the second respondent has tampered with the witnesses and thereby violated one of the conditions of the bail.

13. The criminal appeal of the second respondent shall be decided expeditiously within a period of six weeks from the date a copy of this order is placed before the High Court.

14. In the meantime, the second respondent shall surrender by 10.06.2026.

15. It is made clear that we have not expressed any opinion as to whether the second respondent has violated the bail conditions or not."

14. When the appellant was initially enlarged on bail, he failed to comply with the conditions imposed and, consequently, the earlier bail order came to be cancelled. Thereafter, the appellant remained in custody from 06.02.2026 to 26.05.2026. Pursuant to the directions of the Hon'ble Supreme Court, he has again been in judicial custody from 09.06.2026. The overt act attributed to the appellant is that he, along with A7 to A11,



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stood outside the hotel where the occurrence took place and prevented outsiders from entering the hotel. The principal overt act of committing the murder has been attributed to A1 to A6, who are alleged to have entered the hotel, brutally attacked the deceased and caused his death. It is also brought to the notice of this Court that A6 and A15 have already been granted bail.

15. Considering the overt act attributed to the appellant and the period of incarceration already undergone by him, this Court is inclined to allow the present criminal appeal, however, subject to stringent conditions.

16. Accordingly, this Criminal Appeal is allowed and the order passed by the learned sessions Judge, Special Court for exclusive trial of cases under SC/ST (POA) Act in CrI.M.P.No.239 of 2026, dated 30.04.2026 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.1,00,000/- (Rupees One Lakh) only with two sureties



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each for a like sum to the satisfaction of the learned sessions Judge, Special Court for exclusive trial of cases under SC/ST (POA) Act. One of the above sureties, must be a Government Surety.

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 Trial Court, daily at 10.30 a.m., until charges are framed in S.C.No.75 of 2024.

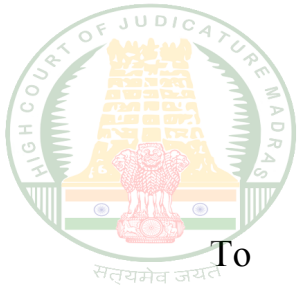
iv) On violation of any of the above conditions by the appellant, the respondent police shall move an application for cancellation of the bail.

17. The first respondent Police is directed to secure the remaining absconding accused and ensure that the trial in S.C.No.75 of 2024 on the file of the Trial Court is concluded as expeditiously as possible.

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Index : Yes / No
NCC : Yes / No
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To

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1. The sessions Judge,
Special Court for exclusive trial of cases under SC/ST (POA) Act,
Tirunelveli
2. The Inspector Of Police,
Palayamkottai Police Station,
Tirunelveli District.
3. The Assistant Commissioner of Police,
Palayamkottai Division,
Tirunelveli City.
4. The Superintendent of Prison,
Central Prison, Puzhal.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.

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