

Crl.A(MD)No.829 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
WEB COPY

DATED : 21.08.2026

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.A(MD)No.829 of 2026

Rahamad @ Rahumankhan

... Appellant / sole accused

Vs.

1.The State of Tamil Nadu,
rep by the Deputy Superintendent of Police,
Oomachikulam Sub Division,
Madurai District.

2.The Inspector of Police,
Oomachikulam Police Station,
Madurai District.
CrNo.29 of 2026

3.Valliyammai

... Respondents

Prayer: Appeal filed under Section 14 -A(2) of the SC/ST Act to call for the records relating to the impugned order passed by the III Additional District and Sessions Court (PCR), Madurai in CrMP.No.223 of 2026 by its order dated 18.06.2026 and set aside the same by allowing this criminal appeal and to enlarge the appellant on bail in Crime No.29 of 2026 on the file of the 2nd respondent.



WEB COPY



Crl.A(MD)No.829 of 2026

For Appellant : Mr.M.Karunanithi
For Respondent : Mr.V.Shathurthiraja
Nos.1 and 2 Government Advocate
For Respondent : Mr.P.Yuvaraj Prabhu
No.3 Legal Aid Counsel

ORDER

The appellant has been arrested by the 2nd respondent police on 05.04.2026 in Crime No.29 of 2026 and he was remanded to judicial custody that he brutally assaulted one Veeramalai. The injured Veeramalai was admitted in the hospital and he died on 14.04.2026. Thereafter, Crime No.29 of 2026 was altered into the offences under Sections 296(b), 115(2), 118(1), 351(2), 127(2) and 103(1) of BNS read with 3(2) (v) of SC/ST (POA) Act. The appellant has filed an application before the III Additional District and Sessions Court (PCR), Madurai in CrMP.No.223 of 2026 seeking bail and the same has been rejected by the trial court by its order dated 18.06.2026. As against the same this appeal has been filed.

2.The case of the prosecution, in brief, is that the appellant was standing near the Alathur water tank on 05.04.2026 and the deceased was walking along the path, at 01:30 pm. During that time, the appellant called



Crl.A(MD)No.829 of 2026

the deceased. However, the deceased ignored the petitioner, without responding to his call. Therefore, the appellant picked quarrel with the deceased and abused him in filthy language. Thereafter, the appellant picked up a cement stone and assaulted the deceased, causing head injuries. The deceased was admitted to the hospital at 02:15 pm and died on 14.04.2026.

3.The learned Counsel appearing for the appellant submits that the deceased, under the influence of alcohol, fell down and sustained head injury and he was admitted in the hospital on 05.04.2026 and died after nine days. He further submits that the case has been foisted on enmity and the appellant is in jail since 05.04.2026, for the past 4 months and therefore, he seeks bail.

4.The learned counsel further submits that the allegation as against the appellant is that he has assaulted the deceased with a stone, the deceased sustained head injury due to the same and died in the hospital. He submits that this cement stone, which was allegedly used to attack the deceased, has not been recovered. Therefore, he submits that the appellant



Crl.A(MD)No.829 of 2026

has been added as an accused on the basis of assumption and he is in jail for the past 110 days. The investigation has been completed and final report is also filed. Hence, he prays for grant of bail.

5.The learned Government Advocate appearing for the respondent police submits that there are eye witnesses to the occurrence and this appellant was standing near Alathur water tank on 05.04.2026 and the deceased was walking along the road. The appellant, under the impression that the deceased ignored him, called him, abused him in filthy language, pushed him down, kicked him and picked up a stone and attacked the deceased indiscriminately on his face and head. The deceased sustained injuries on his head and was immediately taken to the hospital. However, he died in the hospital on 14.04.2026. Therefore, according to the learned Government Advocate, this is a heinous crime. The deceased was assaulted by the appellant since he has not respected him and the occurrence has also been witnessed by three eye witnesses. Hence, he prays for dismissal of this appeal.



Crl.A(MD)No.829 of 2026

WEB COPY

perused the materials.

7.The case of the prosecution is that when this appellant was standing near Alathur water tank, the deceased crossed him on the road and this appellant has created problem that the deceased has not respected him, quarreled with him and pushed him and also assaulted him with stone. If the prosecution case is true, then this court has to reject the request of this appellant for grant of bail. However, the learned counsel for the appellant has taken a plea that the deceased, in an inebriated condition fell down and sustained injuries, was admitted in the hospital and died in the hospital after 9 days. Considering the rival submissions, this court has called for case diary and perused the same. This court has noted down the following infirmities in the investigation:

(i)The deceased belongs to the scheduled caste and the appellant belongs to Muslim community. The first information report was registered on 05.04.2026, that the appellant has assaulted the deceased that he has not respected him, while passing in the road. This case was registered by the 2nd



Crl.A(MD)No.829 of 2026

respondent police in Crime No.29 of 2026 for the offences under Sections 296(b), 115(2), 118(1), 109 and 351(2) BNS. The provisions of the SC/ST(POA) Act has not been added till the deceased died in the hospital.

(ii)Only after the deceased died in the hospital on 14.04.2026, the offence has been altered and the investigation has been entrusted to the Deputy Superintendent of Police. The DSP has taken the appellant into custody. However, neither the 2nd respondent Inspector of Police nor the Deputy Superintendent of Police has taken any steps to recover the alleged stone used in the commission offence, by which the appellant assaulted the deceased.

(iii)The DSP has recorded that he has taken the accused to the place of occurrence on 13.05.2026, that the stone could not be identified and therefore, it was not recovered. The earlier investigation officer/ the Inspector of Police, did not take any steps to find out the alleged weapon, by which the deceased was assaulted in this case.



Crl.A(MD)No.829 of 2026

WEB COPY

(iv)The appellant has taken a stand that the deceased fell down and sustained injury. The prosecution has not recovered the alleged stone.

In such a circumstance, if any photographs of the deceased has been taken and filed in the case diary, it would be convenient for this court to ascertain whether the injury could be caused due to a fall or due to an assault. However, there are no photographs available in the case diary. With the available material, it is not known how the respondent police is going the lay an effective prosecution in Crime No.29 of 2026.

8.The Doctor who conducted the postmortem has provided the cause of death as “Died due to the Effects of Cranio- Cerebral Injury with Coronary Artery Disease and its Complications thereof”. The following injuries were noted down during the postmortem:

(i)Avulsed laceration wound of size 3x2x1 cm covered with brown coloured scab noted over the back of Right ear lobe.

(ii)Abrasion (partially healed) measuring 3x2 cm covered with dried brown coloured scab noted over the Right cheek.



Crl.A(MD)No.829 of 2026

WEB COPY

(iii)Abrasion (partially healed) measuring 3x2 cm covered with dried brown coloured scab noted over the Left eyebrow.

(iv)Mouth examination- The Left upper central incisor tooth appear shaking.

(v)Deformity of lower jaw in the right side noted.O/d-fracture of Right jaw bone noted with surround soft tissue contusion.

(vi)Deformity of Left shoulder noted. O/D-fracture of Left collar bone at its middle 1/3rd noted with surrounding soft tissue contusion.

9.The Doctor, during the trial would simply give the evidence of all the probabilities of that injury. In such circumstances, if any photograph of the deceased or the weapon with blood stains, was taken it would throw light on the facts of this case.

10.The use of photography, videography and other electronic records for documenting the scene of crime, the recovery of weapons, the



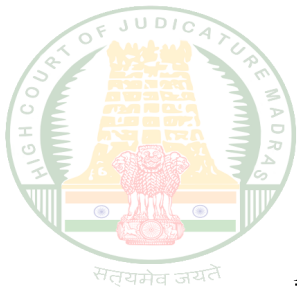
Crl.A(MD)No.829 of 2026

WEB COPY

injuries sustained by victims, and the seizure and handling of material objects, is meant to ensure objectivity and credibility in the investigation process and also enables the Courts to appreciate the evidence in its true form during criminal trials. In fact, the Hon'ble Supreme Court in ***Shafhi Mohd. v. State of H.P* [(2018) 5 SCC 311]**, has directed that steps should be taken to introduce videography in investigation, particularly for crime scene as desirable and acceptable best practice. The relevant portion is extracted hereunder:

“9.We are in agreement with the Report of the Committee of Experts that videography of crime scene during investigation is of immense value in improving administration of criminal justice. A Constitution Bench of this Court in Karnail Singh v. State of Haryana [Karnail Singh v. State of Haryana, (2009) 8 SCC 539 : (2009) 3 SCC (Cri) 887] , SCC para 34 noted that technology is an important part in the system of police administration. It has also been noted in the decisions quoted in the earlier part of this order that new techniques and devices have evidentiary advantages, subject to the safeguards to be adopted. Such techniques and devices are the order of the day. Technology is a great tool in investigation. By the videography, crucial evidence can be captured and presented in a credible manner.

10.Thus, we are of the considered view that notwithstanding the fact that as of now investigating agencies in.



Crl.A(MD)No.829 of 2026

WEB COPY

India are not fully equipped and prepared for the use of videography, the time is ripe that steps are taken to introduce videography in investigation, particularly for crime scene as desirable and acceptable best practice as suggested by the Committee of the MHA to strengthen the Rule of Law. We approve the Centrally Driven Plan of Action prepared by the Committee and the timeline as mentioned above. Let the consequential steps for implementation thereof be taken at the earliest.”

11. Similarly, in ***Pooja Pal v. Union of India*** [(2016) 3 SCC 135], the Hon’ble Supreme Court has held that the use of technology would improve the efficiency of the investigation. The relevant portion is extracted hereunder:

“97. The joining of science with traditional criminal investigation techniques offers new horizons of efficiency in criminal investigation. New perspectives in investigation bypass reliance upon informers and custodial interrogation and concentrate upon a skilled scanning of the crime scene for physical evidence and a search for as many witnesses as possible.”



Crl.A(MD)No.829 of 2026

WEB COPY

12.In line with the above developments, the Bharatiya Nagarik Suraksha Sanhita 2023 [in short “BNSS”] also provides for the use of technology at every stage of the investigation process. Section 530 of the BNSS provides that all trials and proceedings may be held in electronic mode, including the examination of complainant and witnesses and the recording of evidence.

13.Section 105 of the BNSS provides that the process of search and taking possession of any property or article shall be recorded through audio-visual electronic means. Further, Section 176(3) BNSS mandates the videography of the forensic collection of evidence, in cases where the alleged offence is punishable with 7 years’ imprisonment or more. This provision provides that the State Government is required to notify Rules in this regard, within a period of five years. Pursuant to the same, the State of Tamil Nadu has notified the Tamil Nadu Criminal Procedure Rules 2025. As per Rule 23 of the aforesaid Rules, every investigating officer shall record video evidence along with audio whenever necessary and they shall take photo evidence as required under the BNSS and Special laws through the eSakshya mobile application or through any other available means.



Crl.A(MD)No.829 of 2026

These Rules have come into force, with effect from 19.06.2025.

WEB COPY

The Central Government has also introduced the eSakshya platform, enabling real-time capture, secure storage, authentication, and transmission of digital evidence to courts.

14.It is also relevant to note that Section 15A(10) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 provides that all the proceedings under the Act shall be video recorded. This provision was introduced by way of Act 1 of 2016 and introduced with the object of ensuring the rights of victims and their dependents. The provision is extracted hereunder:

“Section 15(A)(10)- All proceedings relating to offences under this Act shall be video recorded.”

15.In ***Dr. Hema Suresh Ahuja and Others vs. State of Maharashtra and Another*** [2024 SCC OnLine Bom 784] a Division Bench of the Bombay High Court held that this provision is mandatory and not directory in nature. Further, it was also held that the widest possible meaning would have to be provided to this provision. The relevant portion



Crl.A(MD)No.829 of 2026

is extracted hereunder:

WEB COPY

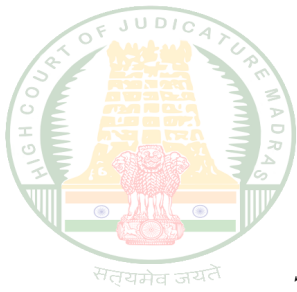
“27...Thus, meaning which is required to be given to the word 'proceedings' is governed by the entire scheme of the statute. Moreover, the word 'proceedings' is preceded by the word 'all'; and hence in the section 15-A(10), the phrase used is 'all proceedings relating to offences under this Act'. This leaves no doubt that the widest possible meaning will have to be given to this particular use of the words.

...

33.In these circumstances, we are also inclined to hold that Section 15-A(10) of the Atrocities Act is mandatory and not directory.”

16.A Division Bench of the Kerala High Court in ***Suresh vs. State of Kerala*** [2025:KER:54366] has held that the BNSS mandates the audio-visual recording of investigative steps and the same improves the quality of investigations. The relevant portion is extracted hereunder:

“33.The BNSS ushers in a new era of evidence-focused, technology-enabled policing, replacing outdated colonial procedures with mandates for audio-visual documentation, scientific evidence collection, and digital case management. Sections 105, 176, 180, 254, 265, 308, and 349 of the BNSS require that searches, seizures, witness statements, and other crucial steps be recorded by “audio-video electronic means.” They also insist on forensic expert involvement in



Crl.A(MD)No.829 of 2026

WEB COPY

serious crimes and provide legal authority to obtain scientific samples from suspects. Therefore, the old habits of cursory scene examination, reliance on witness memory, and sparse documentation will no longer suffice. The BNSS provisions expressly require that critical investigative steps be documented with audio-video recordings and that forensic evidence be collected and integrated from the outset. Such requirements aim to improve the quality of investigations and ensure integrity and accountability from investigating officers... ..Today, by law, the same scene must be videotaped, photographed, and forensically examined, and the digital records are required to be preserved. This dramatic leap in capability, from the pencil-and-paper era to a digital evidence ecosystem, is certainly a change for the better.

17. Similarly, Section 180(3) BNSS provides that the witness statements provided to the police, may be recorded by audio-visual electronic means. The purpose behind the audio-visual recording of witness statements is to ensure that the witnesses were actually examined by the investigating officer and also to ensure authenticity of the statement that was provided before the police officer.



Crl.A(MD)No.829 of 2026

18.In ***Sateesh Kumar and another vs. State*** [2019 [2] L.W.

(Crl.) 826], a Division Bench of this court observed that the list of hostile witnesses is getting bigger and held that the recording the examination of witnesses by Police by audio - video electronic means, will make it easier for the prosecution to confront witnesses before the Court when the witness wriggles out of the earlier statement and is treated to be hostile. Therefore, this court directed the State to frame a definite action plan to implement the provision for using audio-video electronic means during the course of investigation. The relevant portion is extracted hereunder:

“It will be relevant to extract the order passed by this Court on 08.11.2019 as under:

“In our tenure, for the last two months, we noticed that in lots of cases, the list of hostile witnesses is getting bigger and bigger, resulting in acquittals. If this trend is allowed to be continued, people will lose faith in the Criminal Justice System. We noticed that the legislature had thought it fit to introduce the provisio to Section 161 of Criminal Procedure Code by Act 5 of 2009, which came into effect on 31.12.2009, whereby, the examination of the witnesses by Police can be recorded by audio / visual electronic means. We found that this provisio has remained in the book for the last ten years and not once it has been



WEB COPY



Crl.A(MD)No.829 of 2026

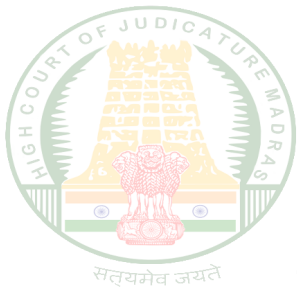
resorted to. Recording the examination of witnesses by Police by audio/video electronic means will make it easier for the prosecution to confront witnesses before the Court when the witness wriggles out of the earlier statement and is treated to be hostile.....We are living in an era where the science has grown so much and it is high time that electronic means is used extensively in the investigation and quality of the investigation is substantially improved.”

...

24.The legislature has thought it fit to bring in audio-visual means to record the statements of witnesses and the evidence of witnesses in order to bring in authenticity and permanent record and ensure that witnesses do easily go back on their statements.”

19.The above decision of the Division Bench was also noted by this court in **Balamurugan vs. State** [MANU/TN/4902/2020]. The relevant portion is extracted hereunder:

“46.Another Division Bench of this Court, in Satheesh Kumar and another vs. State, reported in 2019 [2] L.W. (Crl.)826, taking cue of the fact that the list of hostile witnesses is getting bigger and bigger, resulting in acquittals, has taken every efforts to improve the criminal justice system to meet the present day scientific advancements and has passed a detailed order on 29.11.2019, after noting down several decisions of the Hon'ble Supreme Court as well as various other Courts of law around the

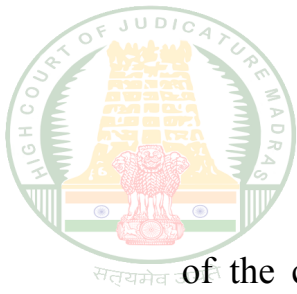


Crl.A(MD)No.829 of 2026

WEB COPY

Country, as to the present day scientific advancements and the lack of criminal justice system to meet the same. In the said order, the Division Bench noted that with the laudable object of recognizing the rights of a victim, the amendments to Sections 161, 164 & 275 Cr.P.C., came to be made in the year 2008 and though such provisions, paving ways and means to record the statements in audio-video mode, were in existence for about ten years, it remains to be a dead letter without being implemented.”

20.The mandate under the BNSS is to ensure technology enabled investigation process. Therefore, in serious offences like murder and sexual offences, the police are mandatorily required to conduct videography of the collection of evidence. The Rules in this regard have also been notified and come into effect. However, the audio-visual recording of the collection of evidence is not being done by the investigation officers, for the reasons best known to them. In the present case also, which involves offences under Section 103(1) BNS and also offence under the SC/ST (POA) Act, no such audio-visual recording of the collection of evidence appears to have been conducted. Such lapses are affecting the quality and integrity of investigations and the Courts also are unable to ascertain the facts of the case. Therefore, the Director General of Police, has to take a call on this issue and issue appropriate directions, to ensure that audio-visual recording



Crl.A(MD)No.829 of 2026

WEB COPY

of the collection of evidence and materials is mandatorily conducted, at least in serious offences.

21.Insofar as the case on hand is concerned, considering the completion of investigation and filing of the final report, the appellant's period of incarceration, this Court is inclined to grant bail to this appellant, however, with certain conditions.:

(i) The appellant is ordered to be enlarged on bail on executing a bond for a sum of Rs.1,00,000/- (Rupees one lakh) with two sureties each for a like sum to the satisfaction of the III Additional Sessions and Sessions Court, Madurai.

(ii) The appellant and the sureties shall file an affidavit before the respondent police that the appellant will not misuse this liberty and will not indulge in any further offence and he will be available for the trial.

(iii) The appellant shall report before the respondent police daily at 10.30am

(iv) If the appellant changes his residence, the same shall be informed to the respondent police immediately with correct address.

(v) If the appellant violates any of the conditions, the respondent



Crl.A(MD)No.829 of 2026

police shall move an application to cancel the bail granted to the appellant.

WEB COPY

22.In the result, this appeal is allowed and the order passed by the learned III Additional District and Sessions Judge Madurai in CrMP.No.233 of 2026, dated 18.06.2026 is set aside.

21.08.2026

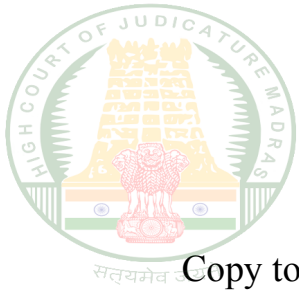
DSK

Note: Mark a copy of this order to

- 1) The Director General of Police, Chennai.
- 2) The Director of Prosecution, Chennai.

To

1. III Additional District
and Sessions Judge, Madurai.
- 2.The Deputy Superintendent of Police,
Oomachikulam Sub Division,
Madurai District.
- 2.The Inspector of Police,
Oomachikulam Police Station,
Madurai District.
- 3.The Superintendent,
Central Prison, Madurai.

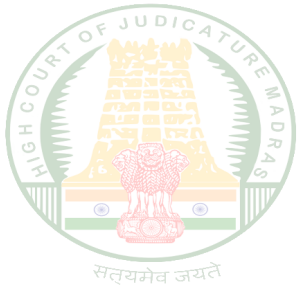


Crl.A(MD)No.829 of 2026

Copy to

WEB COPY

The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.A(MD)No.829 of 2026

B.PUGALENDHI, J.,

DSK

Crl.A(MD)No.829 of 2026

21.08.2026