

**IN THE COURT OF THE SESSIONS JUDGE, PRINCIPAL POCSO COURT,  
SALEM.**

**Present: Tr.V.Jaikumar, M.A.,B.L.,**  
Sessions Judge,  
Principal POCSO Court (FAC)  
Salem.

Monday, the 17<sup>th</sup> day of August 2026

**Crl.M.P.No. 349/2026 in Crl.M.P.No.796/2025**  
**in Spl.S.C.No.70/2025**  
**in Cr.No.11/2025**  
**On the file of AWPS, Ammepet**

The State Rep. by  
Inspector of Police,  
AWPS – Ammapet,  
Cr.No.11/2025

...Petitioner/Complainant

-VS-

Ajad Sek(55),  
S/o.Mohammed Jammat Sek,  
Tanuaya, Paschim, Medinipur,  
Mohanour, West Bengal.

... Respondent/ Accused.

This petition came up for final hearing before this court in the presence of Tmt.V.Sudha, Special Public Prosecutor for the Petitioner / Complainant and Tmt.S.Srinidhi, Advocate for the Respondent / Accused, upon hearing both and on perusal of records, this Court passes the following:

**ORDER**

1. This petition has been moved by the Prosecution to cancel the bail granted by this Court in Crl.M.P.No.796/2025 dated 23.05.2025.
2. **The averments in the affidavit filed by the Inspector of Police are as follows:-**

In support of this petition for cancellation of bail, the Inspector of Police has

filed an affidavit to the effect that the respondent was arrested on 11.02.2025 for the alleged offences punishable under Section 9(m) r/w 10 of POCSO Act 2012 and Investigation was completed on 10.03.2025 and Final Report was filed which was taken on file by this Court in Spl.S.C.No.70/2025 and the case is pending trial. The accused who was enlarged on bail in Crl.M.P. No.796/2025 dated 23.05.2025, did not appear for hearings and remained absconding for one year and he was again arrested on execution of Non Bailable Warrant and therefore the bail granted to the petitioner may be cancelled.

3. **The averments contained in the Counter filed by the respondent are as follows:**

The respondent could not appear before the court as he met with an accident and his absence was neither wilful nor wanton. The respondent has never attempted to misuse the liberty granted to him by this Court. As the petitioner was under going medical treatment, he could not appear before this Court and the petitioner in filing herewith the medical records and also undertake to appear regularly hereafter.

4. This petition was filed without considering the genuine circumstances under which the respondent remained absent and therefore, the petition may be dismissed.

5. The short question that arises for consideration is whether the bail granted to the petitioner in Crl.M.P.No.796/2025 dated 23.05.2025 is liable to be cancelled?
6. I have also heard the learned Special Public Prosecutor and the learned Counsel appearing for the respondent.
7. The learned Special Public Prosecutor would contend that the bail granted may be cancelled as the petitioner belongs to West Bengal and he was secured with great difficult and the trial could not be proceeded.
8. Per contra, the learned counsel appearing for the respondent would contend that the medical records submitted by the respondent would show that he was absent for valid reason and as such the bail granted already may not be cancelled for this reason.

9. **Point :**

A perusal of records would go to show that the petitioner moved an application for bail in Crl.M.P.No.664/2025 and the same was dismissed by an order dated 25.04.2025. Subsequently, the petitioner moved an another application for bail in Crl.M.P.No.796/2025 and the same was allowed by an order dated 23.05.2025, on condition to execute a bond for Rs.10,000/- with two sureties for the like sum to the satisfaction of Additional Mahila Court, Salem and one such surety should be blood related.

10. On 30.12.2025, the accused was absent for hearing and therefore the case was

posted on 28.01.2026. On that day also, the accused was absent. Hence, the case came to be adjourned to 13.02.2026. Even on that date, the accused was absent and he was represented by none and therefore, the Court was pleased to issue a Non Bailable Warrant. It was executed and the petitioner was arrested and remanded to Judicial custody on 23.07.2026. Thereafter, this petition for cancellation of bail came to be moved by the prosecution.

11. At the outset, the question that arises in the mind of the Court is that whether the petition for cancellation of bail is maintainable when the petitioner was already remanded to Judicial custody. On 23.07.2026, the petitioner was produced before this Court on execution of Non Bailable Warrant and the explanation submitted by the accused for his non appearance was not satisfactory to the Court and therefore, the petitioner was remanded to Judicial custody. His bail bonds, therefore, stood cancelled automatically. Now the accused has the only remedy to move fresh bail petition. The Action taken against the sureties is also pending before this Court in C.M.P.No.309/2026. When that being the position, whether the petition as filed by the prosecution for cancellation of bail is maintainable at this stage is the only question.

12. At this juncture, it would be more lucrative to refer to the decision to the Hon'ble High Court of Madras in **Pillappan Vs. State represented by the Inspector of Police, reported in 2018 SCC Online Mad 13298**. In the said decision, His Lordship Hon'ble Mr.Justice P.N.Prakash as he then was, after

analysing the issue, has observed in paragraph No.30 that after the accused was remanded to Judicial custody under Section 309 of Cr.P.C. on execution of Non Bailable Warrant, the accused has to apply for fresh bail which can be considered on merits by taking into consideration the period of his abscondence and the desirability to grant bail to such a person.

13. If the Court was of the view that the explanation submitted by the accused for his non appearance was satisfactory, then the Court would have directed him to execute fresh bail bond and at that time, if the prosecution apprehends that he could not be secured again, then the prosecution should have moved the petition for cancellation of bail. The said situation did not arise in this case on hand and we have crossed that stage and the accused was remanded to Judicial custody under Section 309 of Cr.P.C. and therefore, this petition for cancellation of bail at this stage will not arise and the same is liable to be dismissed and the prosecution is at liberty to raise all the available grounds at the time of bail petition if moved by the accused. With this observation, this petition is liable to be dismissed.

14. In the result, this petition is dismissed.

***Dictated to the steno-typist, transcribed and typed by her, corrected and pronounced by me in open court on this the 17<sup>th</sup> day of August 2026.***

Sd/- V.Jaikumar  
Sessions Judge, (FAC)  
Principal POCSO Court, Salem.

Copy to:

1. The Special Public Prosecutor,  
Principal POCSO Court, Salem.
2. Tmt/Selvi.S.Srinidhi, counsel for the respondent.
3. The Inspector of Police, AWPS – Ammapet.