



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2019

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THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Cr1.RC(MD)No.214 of 2019

Sahayaraja

... Petitioner/Petitioner/Accused

Vs.

State Rep. by
The Inspector of Police,
All Women Police Station,
Thoothukudi,
Thoothukudi District.
(Crime No.18 of 2014)

... Respondent/Respondent/Complainant

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records in Spl.S.C.No.4 of 2015 on the file of the Additional Sessions Judge/Mahalir Neethi Mandram, Thoothukudi, Thoothukudi District and set aside the order cancelling the bail granted on 18.02.2019 passed in Cr.M.P.No.546 of 2019 on its file.

For Revision Petitioner : Mr.A.Thiruvadikumar

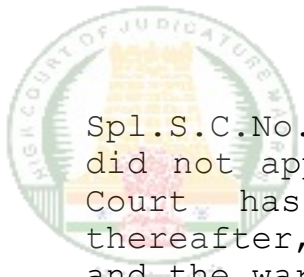
For Respondent : Mr.A.Robinson
Government Advocate (Cr1.Side)

O R D E R

This petition is filed to quash the order in Spl.S.C.No.4 of 2015 on the file of the Additional Sessions Judge/Mahalir Neethi Mandram, Thoothukudi, Thoothukudi District and set aside the order cancelling the bail granted on 18.02.2019 passed in Cr.M.P.No.546 of 2019.

2.Heard both side and perused the materials available on record.

3.It is seen from the records that the respondent police has registered a case in Crime No.18 of 2014 under Section 506(i) of Indian Penal Code and Section 6 of Protection of Children from Sexual Offences Act. After investigation, the police has filed a final report against the accused for the offences punishable under Section 6 of POCSO Act and Section 506(1) of IPC., before the learned Mahila Judge, Thoothukudi and the same was taken on file as



Spl.S.C.No.4 of 2015 and after commencement of trial, the petitioner did not appear before the trial Court and hence, the learned trial Court has issued a non-bailable warrant on 07.07.2015 and thereafter, the petitioner has surrendered before the trial Court and the warrant was recalled on 23.11.2016.

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4.It is also seen that again the petitioner has not chosen to defend trial, hence, NBW issued on 01.02.2018 and then, the petitioner himself surrendered before the learned trial Court and recalled the non-bailable warrant on 14.02.2018. Thereafter, on 21.12.2018 again NBW issued against him. The same was recalled on 01.02.2019 with the condition to furnish the Identity Card or Aadhar Card. But, the petitioner failed to furnish the same. Hence, he was remanded to judicial custody on 19.02.2019.

5.It is settled principle of law that bail cannot be cancelled on onerous reasons. Further, in the judgment reported in **1993 SCC (Cr) 36 (Janata Dal Vs. H.S.Chowdhary)**, the Hon'ble Apex Court held that the controlling power of the High Court is discretionary and it must be exercised in the interest of justice with regard to all facts and circumstances of each particular case, anxious attention being given to the said circumstances which vary greatly from case to case.

6.Keeping in view of the above, this court is of the considered view that the order, dated 01.02.2019 passed by the Additional Sessions Judge/Mahalir Neethi Mandaram, Thoothukudi in CMP No.546 of 2019 in Spl.S.C.No.4 of 2015 is liable to be set aside.

7.In the result, this criminal revision is **allowed**. The order, dated 01.02.2019 passed by the Additional Sessions Judge/Mahalir Neethi Mandaram, Thoothukudi in CMP No.546 of 2019 in Spl.S.C.No.4 of 2015 is set aside. The petitioner is released on bail on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties each for a like sum to the satisfaction of the Additional Sessions Judge, Mahalir Neethi Mandaram, Thoothukudi and on further condition that the petitioner shall appear before the said court daily at 10.30 am until further orders.

Sd/-

Assistant Registrar (W)

/ True Copy /

Sub Assistant Registrar(CS-)



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- To
- 1.The Additional Sessions Judge/Mahalir Neethi Mandram,
Thoothukudi, Thoothukudi District.
 - 2.The Inspector of Police,
All Women Police Station,
Thoothukudi,
Thoothukudi District.
 - 3.The Superintendent,
District Jail, Perurani, Thoothukudi.
 - 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- +1 CC to M/s.A.THIRUVADI KUMAR, Advocate
(SR-64249[F] dated 30/04/2019)

Crl.RC (MD) No.214 of 2019
29.04.2019

ES/11.06.2019/3P/6C