

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.8934 of 2020

Manikandan

... Petitioner

Vs.

State, represented through
The Inspector of Police,

...Respondent

(*)Mettupalayam Railway Police Station
Coimbatore.
(Crime No.03/2020)

Prayer: Criminal Original Petition filed under Section 439 of Criminal Procedure Code, praying to release the petitioner on Bail arrested for the alleged offences in Cr.No.03 of 2020 on the file of the respondent.

For Petitioners : Mr. B.Aravinthan

For Respondent : Mr.K.Prabakar
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested on 12.02.2020 and remanded to judicial custody on 14.02.2020 for the alleged offences under Sections 5(g), 5(1), 5(1) (II), r/w 6 of POCSO Act, 3(1) and 4(1) of Immoral Traffic Prevention Act and 370, 376 (D) (a) of IPC in Crime No.03 of 2020 on the file of the respondent police, seeks bail.

2. The learned counsel for appearing for the petitioners would submit that the petitioner was arrested on 12.02.2020 and remanded to judicial custody on 14.02.2020 in Crime No.03 of 2020 registered by the Mettupalayam Police Station for the offences under Sections 5 (g), 5(1), 5(1) (II), r/w 6 of POCSO Act, 3(1) and 4(1) of Immoral Traffic Prevention Act and 370, 376 (D) (a) of IPC 2012. He further submitted that though 90 days have lapsed, the respondent has not filed final report and therefore, the petitioner is entitled to default bail under Section 167(2) Cr.PC and hence, he prays for grant of bail to the petitioner.

3. The learned Additional Public Prosecutor vehemently opposed stating that originally the case was registered by Mettupalayam Police Station and thereafter, after the direction of the Director General of Police, the case was transferred to **CBCID Branch, ATC, Egmore, Chennai-8** on 17.03.2020. Now, investigation is being done by the present respondent. He would further submit that identification parade has been conducted. However, he would submit that final report has not been filed till date.

4. Heard both sides.

5. The Hon'ble Supreme Court in CrI.A.No.452 of 2020 dated 19.06.2020 in the case of **S.Kasi V. State through the Inspector of Police, Samayanallur Police Station, Madurai District** while referring to the earlier decisions regarding default bail, has held hereunder.

"14. The scheme of Code of Criminal Procedure as noticed above clearly delineates that provisions of Section 167 of Code of Criminal Procedure gives due regard to the personal liberty of a person. Without submissionn of charge sheet within 60 days or 90 days as may be applicable, an accused cannot be detained by the police. The provision gives due recognition to the personal liberty".

6. The petitioner was arrested on 20.02.2020 and he is in incarceration for more than 100 days. The respondent/police have not filed final report till date. Though the allegations are very serious in nature, the petitioner is entitled to default bail as per the mandate of Section 167(2) Cr.PC, since the final report has not been filed till date.

7. In view of the above, the petitioner is entitled to bail as per the mandate under Section 167(2) of Cr.P.C and thereby this Court is inclined to grant bail to the petitioner, subject to the following conditions:

[a] the petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison in which the petitioner has been confined and thereafter on his release;.

[b] the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the Special Judge for Exclusive Trial of Cases under POCSO Act, Chennai, within a period of 15 days from the date of lifting of lockdown and commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically.

[c] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[d] the petitioner shall report before the Mettupalayam Police Station daily at 10.30 a.m., until further orders and meanwhile shall appear before the CBCID, Anti Trafficking Cell, Egmore, Chennai - 8 as and when required.

[e] the petitioner shall not commit any offences of similar nature;

[f] the petitioner shall not abscond either during investigation or trial.

[g] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[h] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the 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)AIR SCW 5560]**.

[i] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

With the above directions, this Criminal Original Petition is ordered.

-sd/-
30/06/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

(*)Amended as per order of this Court dated 08/07/2020 made in CrI.M.P.No.4396/2020 in CrI.O.P.No.8934/2020.

TO

1 THE SPECIAL COURT FOR EXCLUSIVE TRIAL OF
CASES UNDER POCSO ACT,
CHENNAI.

2 THE INSPECTOR OF POLICE,
(*)Mettupalayam Railway Police Station
COIMBATORE DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
SAMAYANALLUR POLICE STATION,
MADURAI DISTRICT.

5 THE CBCID BRANCH,
ATC, EGMORE, CHENNAI-8

6 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

CC to M/S. B.ARAVINTHAN Advocate on payment of necessary
charges

CRL OP.8934/2020

Date :30/06/2020

TA-14/07/2020

TA-14/08/2020



WEB COPY