

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.08.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.11933 of 2020

D.Vignesh

... Petitioner

Vs.

State Rep. by its
Inspector of Police
AWPS, Gingee,
Vilupuram District.
Crime No.3 of 2020

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with Crime No.3 of 2020 on the file of the Inspector of Police, AWPS, Gingee, Villupuram District.

For Petitioner : Mr.J.Pachiyappan

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 07.07.2020 for the offence punishable under Section 14(1) of POCSO Act, 67A, 67B of IT Act, in Crime No.3 of 2020 seeks bail.

2. The case of the prosecution is that the petitioner had downloaded child pornography materials by using his mobile phone No.7904835236 and also forwarded the same to his friends. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would submit that by mistake, the petitioner had downloaded some apps and later without his knowledge, the offensive materials have stored in his cell phone and that he is unaware of the same. He would further submit that the petitioner is an Engineering Graduate and he has been in judicial custody from 07.07.2020. Hence, he prays for grant of bail to the petitioner.

4.The learned Government Advocate (Crl. Side) would submit that this case has been registered on the complaint given by the National Centre for Missing and Exploited Children and that the petitioner had downloaded Child Pornography material in his mobile phone and circulated the same to others. He would submit that there is no

previous case against the petitioner. However, he opposed for the grant of bail to the petitioner.

5. Taking into consideration the facts and circumstances and the submissions made by the learned counsels and considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to execute 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 learned Sessions Judge, Special Court for Exclusive Trial Cases under POCSO Act, Villupuram, within a period of two weeks after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, 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 learned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(d) the petitioner shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter every Monday at 10.30 a.m. until further orders.

(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 Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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.

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

-sd/-

12/08/2020

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.

TO

1 THE SESSIONS JUDGE, SPECIAL
COURT FOR EXCLUSIVE TRIAL CASES UNDER POCSO ACT,
VILUPURAM DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
GINGEE, VILLUPURAM DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

CC to M/S.J.PACHIYAPPAN Advocate on payment of necessary charges

CRL OP.11933/2020

Date :12/08/2020

RVR 15/09/2020

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