

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2020

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THE HONOURABLE **MR.JUSTICE M.NIRMAL KUMAR**

Crl.O.P.No.18366 of 2020

S.Prabhu, S/o.Subramani

.. Petitioner

Vs.

State rep. by
The Inspector of Police,
Saravanampatty Police Station
Coimbatore District
(Crime No.2079 of 2020)

Forwarded
Inspector of Police
East All Women Police Station
Coimbatore City

... Respondent

PRAYER: Criminal Original petitions have been filed under Sections 439 (1) (b) of the Code of Criminal Procedure, to modify clause 1 of the condition imposed by an order dated 07.11.2020 passed in C.M.P.No.502 of 2020 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore, by allowing this present criminal original petition.

For Petitioner : Mr.K.Govi Ganesan

For Respondent :Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

This Criminal Original Petition has been filed seeking for modification of Clause-1 of the condition imposed by the Court below.

2. The petitioner was arrested and remanded to judicial custody on 28.09.2020 and therefore, he filed a petition for bail before the Court below. The Court below while granting bail to the petitioner on 07.11.2020 has imposed the following condition in Clause-1:

1) The accused should produce the nativity certificate and permanent residential proof issued by the Tahsildhar with two sureties for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each, and one of them should be a blood relative and the sureties should produce a solvency certificate attested by Tahsildhar for the surety amount”

3. The learned counsel for the petitioner would submit that the petitioner was arrested in Crime No.2079 of 2020 for the offences punishable under Section 7 & 8 of POCSO Act, 2012 and Section 506(ii)

IPC and remanded to judicial custody on 28.09.2020. He would further submit that the petitioner had applied for bail and the petitioner was granted bail by the Court below in C.M.P No.502 of 2020 on 07.11.2020. However, the learned Magistrate imposed a condition in Clause-1 that the petitioner shall be released on bail on producing the nativity certificate and permanent residential proof issued by the Tahsildhar with two sureties for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each, and one of them should be a blood relative and the sureties should produce a solvency certificate attested by Tahsildhar for the surety amount”, which is not only excessive but also highly onerous as the petitioner is a native of Ukkadai Ariya Mangalam Village, Trichy District and 6 years before he along with his parents and brothers migrated to Coimbatore for eking out their livelihood and settled in Coimbatore. He would further submit that the petitioner is not having any means to obtain Nativity certificate from Tahsildhar and permanent residential certificate issued by Tahshildhar and therefore, the petitioner is unable to comply with the conditions imposed in Clause-1 of the order dated 07.11.2020 in C.M.P.No.502 of 2020 and thereby he seeks for modification of the Clause-1 condition. He would

further submit that despite the order having been granted on 07.11.2020, the petitioner is still in custody.

4. Heard the learned Additional Public Prosecutor appearing for the respondent.

5. Taking into consideration of the facts and circumstances of the case and also the submissions made by the learned counsel for the petitioner, this Court is inclined to modify the Clause-1 condition imposed by the Court below.

6. In the result, the clause-1 condition alone imposed by the Court below dated 07.11.2020 is modified to the effect that the petitioner is directed to 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 Magistrate concerned, The other conditions imposed by the Court below shall stand unaltered.

7. This Criminal Original Petition is disposed of, with the above modification.

01.12.2020

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Note: Issue on 03.12.2020

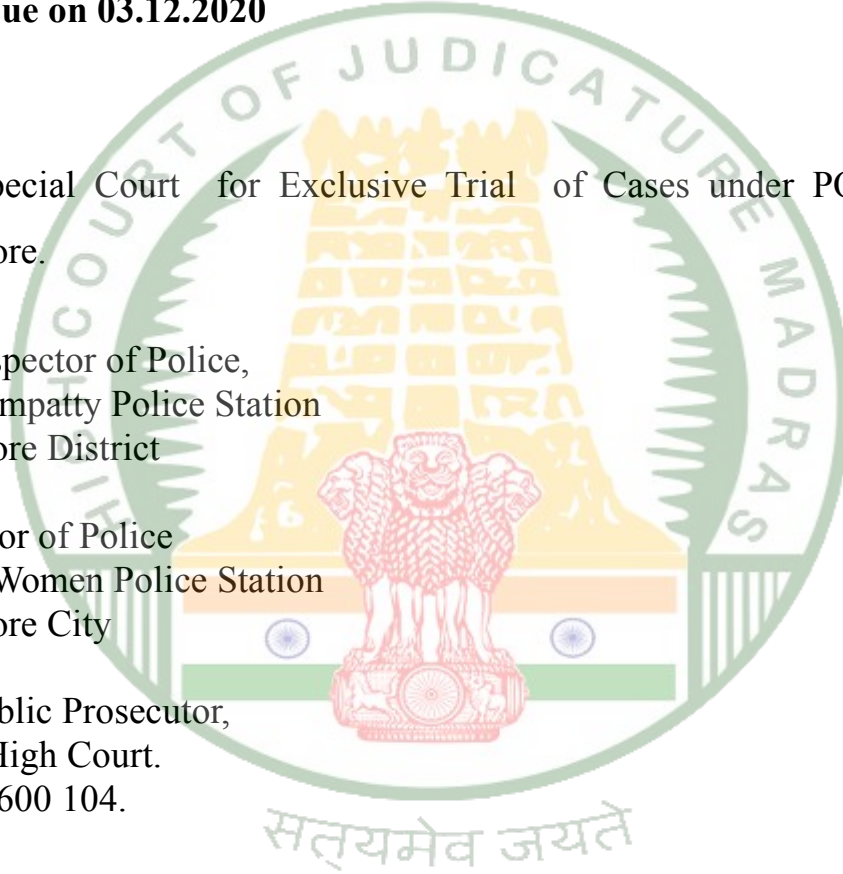
To

1.The Special Court for Exclusive Trial of Cases under POCSO Act,
Coimbatore.

2.The Inspector of Police,
Saravanampatty Police Station
Coimbatore District

3.Inspector of Police
East All Women Police Station
Coimbatore City

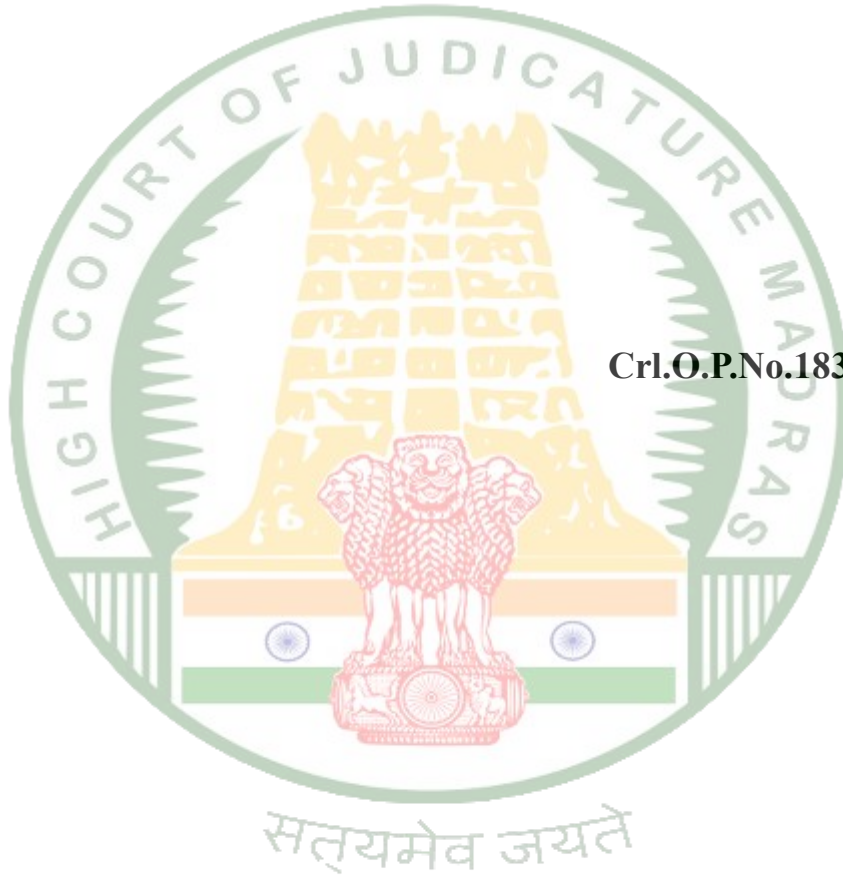
4.The Public Prosecutor,
Madras High Court.
Chennai 600 104.



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