

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.12.2020

CORAM :

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

CRL.O.P.No.19985 of 2020

Mahendiran

... Petitioner

Vs.

State:Inspector of Police,
W 22, All Women Police Station,
Mylapore, Chennai.
(Crime No.11 of 2020)

... Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Cr.P.C, to enlarge the petitioner on bail in Crime No.11 of 2020 on the file of the respondent police.

For Petitioner : Mr.M.Rajavelu

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 05.11.2020 for the offence punishable under Section 14(1) and 15 of POCSO ACT 2012 and 66(E), 67, 67(A) and 67(B) of IT Act, in Crime No.11 of 2020, seeks bail.

2. The case of the prosecution as per the de facto complainant, the Sub Inspector of police attached to the respondent police is that on 04.11.2020 at about 12.30 p.m. while he along with other police officials was in routine check up in order to prevent the offences against children and women, he found two persons were sitting in Nageshwararao park and on seeing the police personnel, they attempted to hide their smart phones and on suspicion, the de facto complainant and other subordinates searched their smart phones, it was found that there were several obscene videos of children and women stored in their cell phones and in the enquiry it was revealed that they have downloaded the obscene videos from several prohibited sites and they have also shared and transmitted the same to several Whatsapp groups.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would submit that the respondent has suo-motu registered the case and arrested the petitioner. He would submit that the petitioner is a member on certain whatsapp groups and he had received certain materials and without understanding the

consequences, he had forwarded it to the other groups. He would submit that the petitioner has no previous case against him and that he was arrested on 05.11.2020 and he is custody for more than 40 days and hence, he prays for the grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent police would vehemently oppose stating that while the respondent police was in usual rounds, they were found the petitioner and two others secretly viewing porn videos in their mobile phone and on seeing the police, they were get away from the scene of occurrence. He would submit that the petitioner is an administrator on 15 whatsapp groups.

5. Taking into consideration the facts and circumstances of the case and the submissions of the learned Counsels and also considering the period of incarceration suffered 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 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 Special Court for POCSO cases, Chennai, and on further conditions that;

(b) 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;

(c) the petitioner, on his release from the prison, shall report before the respondent Police everyday at 10.30 a.m. and 5.30.p.m until further orders;

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Judicial 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];

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

16/12/2020

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 SPECIAL COURT FOR POCSO
CASES, CHENNAI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
W 22, ALL WOMEN POLICE
STATION, MYLAPORE, CHENNAI

4 THE OFFICER INCHARGE,
SUB JAIL, CHENGALPATTU

CC to M/S.M.RAJAVELU Advocate on payment of necessary charges
Sr.8276

CRL OP.19985/2020

Date :16/12/2020

RVR 17/12/2020

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