

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.12.2020

CORAM :

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

CRL.O.P.No.20143 of 2020

Anandakrishnan

... Petitioner

Vs.

The State of Tamil Nadu,
Rep. by The Inspector of Police,
W-22, Mylapore All Women Police Station,
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.Iliyas

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 04.11.2020 for the offence punishable under Section 14 (i), 15 of POCSO ACT and Section 66(E), 67, 67(A), 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. On suspicion, when the *de facto* complainant and other subordinates checked their smart phones, it was found that there were several obscene videos of children and women were stored in their cell phones and on the enquiry it was revealed that they had downloaded the obscene videos from several prohibited sites and have shared and circulated the same to several Whatsapp groups.

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 the respondent has suo-motu registered the case and arrested the petitioner. He would submit that the petitioner is a member of 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 co-accused in this case have been granted bail by this Court vide Crl.O.P.Nos.19933 and 19985 of 2020 by order dated 14.12.2020 and 16.12.2020 respectively and the petitioner has no previous case against him and that he has been suffering incarceration for more than 40 days from 04.11.2020. 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 on usual rounds, they found the petitioner and two others were secretly viewing porn videos in their mobile phones and on seeing the police, they attempted to hide the cell phone and tried to get away from the scene of occurrence. On suspicion, when the *de facto* complainant and other subordinates checked their smart phones, it was found that there were several obscene videos of children and women were stored in their cell phones and on the enquiry it was revealed that they had downloaded the obscene videos from several prohibited sites and have shared and circulated the same to several Whatsapp groups. He would submit that the petitioner is an administrator of 15 whatsapp groups.

5. Taking into consideration the facts and circumstances of the case and the submissions of the learned Counsels and the fact that co-accused in this case have been granted bail by this Court 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 Exclusive Trial of Cases under POCSO Act, City Civil Court Building, 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/-

17/12/2020

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
EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
CITY CIVIL BUILDING, CHENNAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
W-22, MYLAPORE ALL WOMEN POLICE STATION,
CHENNAI.

+1CC to M/S M.ILIYAS Advocate on payment of necessary
charges SR NO.8332

CRL OP.20143/2020

Date :17/12/2020

MK:18/12/2020

<https://hcservices.ecourts.gov.in/hcservices/>