



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 03/12/2020

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD). No.13970 of 2020

Annadurai

... Petitioner/3rd Accused

Vs

State Rep.by
The Inspector of Police,
Sivagangai Town Police Station,
Sivagangai District.
Crime No.364 of 2016

... Respondent/Complainant

For Petitioner : Mr.K.Malaimaran, Advocate.
For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

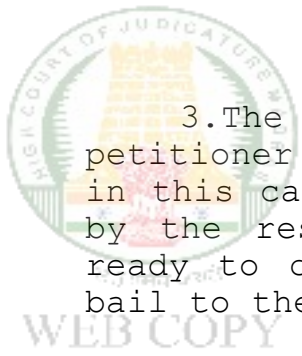
PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :- For Bail in Crime No. 364 of 2016 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A3, who was arrested and remanded to judicial custody on 19.10.2020 for the offences punishable under Sections 294(b), 506(ii), 366(A) of I.P.C @ 294 (b) 506 (ii), 366 (A) of IPC and Section 5 (1) r/w Section 6 of POCSO Act, 2012 and 10, 11 of Prohibition of Child Marriage Act, 2006, on the file of the respondent police seeks bail.

2.The case of the prosecution is that a case was registered in Crime No.364 of 2016. After completion of investigation, charge sheet was laid before the learned Sessions Judge / Special Court For Exclusive Trial of Cases Under the POCSO Act, 2012, Sivagangai and the was taken cognizance in Spl.S.C.No.39 of 2016. The petitioner has not appear before the concerned court and hence, NBW was issued against the petitioner. Thereafter, the petitioner was arrested by the respondent police. Hence, the petitioner filed recall the NBW petition in Cr.M.P.No.406 of 2020 and the same was dismissed on 04.11.2020. Again, he filed recall petition in Cr.M.P.No.475 of 2020 and the same was also dismissed on 20.11.2020. Hence, the petitioner is in judicial custody for past 42 days.



3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case and he has not committed any such offences as alleged by the respondent. Further, he submitted that the petitioner is ready to co-operate for the trial. Hence, he prayed for grant of bail to the petitioner.

4. The learned Government Advocate(Crl.Side) would submit that a case was registered in Crime No.364 of 2016. After completion of investigation, charge sheet was laid before the learned Sessions Judge / Special Court For Exclusive Trial of Cases Under the POCSO Act, 2012, Sivagangai and the was taken cognizance in Spl.S.C.No.39 of 2016. The petitioner has not appear before the concerned court and hence, NBW was issued against the petitioner. Thereafter, the petitioner was arrested by the respondent police and remanded to the judicial custody. Hence, the petitioner filed recall the NBW petition in Cr.M.P.No.406 of 2020 and the same was dismissed on 04.11.2020. Again, he filed recall petition in Cr.M.P.No.475 of 2020 and the same was also dismissed on 20.11.2020. He further submitted that the petitioner was secured with great difficulty and if the petitioner is released on bail, he may be absconded. Hence, he opposed to grant bail to the petitioner.

5. It is seen that the since the petitioner did not appear before the concerned court, NBW was issued against him. Now, he is in judicial custody from 19.10.2020.

6. Taking note of the above facts and circumstances of the case and also taking into consideration the period of incarceration, this Court is inclined to grant bail to the petitioner subject to the following conditions:

7.Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two blood sureties each for a like sum to the satisfaction of the learned Sessions Judge / Special Court For Exclusive Trial of Cases Under the POCSO Act, 2012, Sivagangai.

i) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity.

ii) the petitioner shall report before the Trial Court daily at 10.30 a.m until further orders.

iii)the petitioner shall not tamper with evidence or witness.

iv) the petitioner shall not abscond during trial.



v) 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].

vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
03/12/2020

/ TRUE COPY /

/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1 THE SESSIONS JUDGE /
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER
THE POCSO ACT, 2012, SIVAGANGAI.
- 2 THE INSPECTOR OF POLICE,
SIVAGANGAI TOWN POLICE STATION, SIVAGANGAI DISTRICT.
- 3 THE OFFICER INCHARGE, SUB JAIL, RAMANATHAPURAM.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.13970 of 2020
Date : 03/12/2020

MS/PN/SAR-4/03.12.2020/3P.5C