

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.3363 of 2021

Manikandan

... Petitioner

Vs.

State by
The Inspector of Police,
Kilkodungalore Police Station,
Thiruvannamalai Dt.
(Crime No.113 of 2015)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with Special S.C. No. 72 of 2019, pending trial on the file of Court of Special Court for Exclusive Trial of cases under POCSO Act, Thiruvannamalai.

For Petitioner : Mr.E.Parthiban

For Respondent : Mrs.M. Prabhavathi,
Addl. Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 23.01.2021 seeks bail in connection with Spl. S.C.No.72 of 2019 pending trial on the file of Special Court for Exclusive Trial of cases under POCSO Act, Thiruvannamalai in Crime No.113 of 2015 for the offence punishable under Sections 366(A), 376 of I.P.C. r/w Section 4 and 8 of POCSO Act and Section 9 of Child Marriage Act, pending on the file of respondent.

2. Earlier, the petitioner was granted bail and subsequently he was absconding and failed to appear before the trial court. Hence, a non-bailable warrant was issued on 04.11.2020 and on the execution of the same, he was arrested on 23.01.2021. Now, he has filed this petition seeking for bail.

3. The learned counsel appearing for the petitioner submitted that he was arrested and subsequently he was granted bail. Thereafter, he is appearing before the Trial Court regularly, but due to some illness, the petitioner could not appear before the Trial

Court for one hearing on 04.11.2020. Hence, a non-bailable warrant has been issued and now, he was arrested and he is in jail for more than 28 days. He would submit that he would abide by any condition imposed by this court. Hence, he prays for grant of bail.

4. The learned Additional Public Prosecutor appearing for the respondent opposed this petition on the ground that except the petitioner, all other accused are appearing before the Committal Court. She would submit that since the petitioner is not appearing, the matter could not be completed. Hence, she opposed to grant bail to the petitioner.

5. I have heard and considered the rival submissions made by the learned counsel appearing for petitioner as well as learned Additional Public Prosecutor and perused the records.

6. Taking into consideration of the facts and circumstances and also considering the period of incarceration suffered by the petitioner for nearly 28 days, this Court is inclined to grant bail to the petitioner subject to the following stringent 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 learned Special Court for Exclusive Trial cases under POCSO Act, Thiruvannamalai 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 prison, shall report before the committal court viz., Special Court for exclusive Trial cases under POCSO Act, Thiruvannamalai on all working days without fail 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

(h) 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/-
22/02/2021

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 JUDGE FOR EXCLUSIVE
TRIAL OF CASES UNDER POCSO ACT,
THIRUVANNAMALAI.

2 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
KILKODUNGALORE POLICE STATION,
THIRUVANNAMALAI DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

CC to M/S.E.PARTHIBAN Advocate on payment of necessary charges

CRL OP.3363/2021

Date :22/02/2021

MN-23/02/2021