

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2021

CORAM

THE HONOURABLE MR. JUSTICE **M.DHANDAPANI**

Crl.O.P.No.6479 of 2021

J.Santhosh Kumar

... Petitioner

Vs.

The State Represented by :-  
Inspector of Police,  
Kangayam Police Station,  
Crime No.8 of 2018

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C.,  
praying to enlarge the petitioner on bail in Spl.S.C.No.22 of 2019 on  
the file of the Magalir Neethimandram (Fast Track Mahila Court)  
Tiruppur.

For Petitioner : Mr.C.D.Sugumar

For Respondent : Mrs.M.Prabhavathi  
Additional Public Prosecutor

**ORDER**

**(The case has been heard through video conferencing)**

The petitioner who was arrested on 17.01.2021 for the offence under Section 366 I.P.C., Section 5(i), 5(j)(ii) read with 6 of protection of children from sexual offences Act 2012 and Section 9 of Prohibition of Child marriage Act 2006 in Crime No.8 of 2018, on the

file of the respondent police, seeks bail.

2. It is the case of the prosecution that the petitioner who was already married and had two children, misbehaved with the victim who is aged about 17 years. The law enforcing agency registered the case against the petitioner/accused. The respondent police have filed the final report before the Magalir Neethimandram, Tirupur (Fast Track Mahila Court) and the same was taken on file in Spl.S.C.No.22 of 2019. During the trial, the trial Court has granted bail to the petitioner with certain conditions. On 17.10.2019, the trial Court posted the case for examination of L.W.1 and L.W.2. On that day, the petitioner has not appeared before the Court and the trial Court has issued a Non Bailable Warrant to the petitioner. The petitioner has been arrested and remanded to judicial custody from 17.01.2021.

3. The learned counsel appearing for the petitioner submits that due to some unavoidable situation, the petitioner was not able to appear before the trial Court. Hence, the trial Court has issued NBW as against the petitioner. The learned counsel prays to grant bail to the petitioner.

4.The learned Additional Public Prosecutor fairly conceded that the trial is pending for the non-appearance of the petitioner. Hence, she opposed for the grant of bail to the petitioner.

5.Considering the facts and circumstances of the case, the petitioner having been under incarceration for more than 60 days in prison and further the fact that the petitioner had been on bail even during the trial, but for his absence on a particular day, which resulted in issuance of NBW and remanding of the petitioner.

6.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 sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Judge, Magalir Neethimandram, (Fast Track Mahila Court), Tiruppur and on further condition that:

(a)the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b)the petitioner is directed to appear before the Magila Neethimandram, Tiruppur daily at 10.30 A.M., till the conclusion of the trial;

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

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

(e)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]***; and;

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

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**M.DHANDAPANI,J.**

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