

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.06.2021

CORAM :

THE HON'BLE MR. JUSTICE M.SUNDAR

Crl.O.P.No.9912 of 2021

M.Dass

...Petitioner / Accused (A7)

Vs.

State rep. by
The Inspector of Police,
All Women Police Station
Cheyyar,
Thiruvannamalai District.
(Crime No.3 of 2021)

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner in the event of his arrest in connection with the Crime No.3 of 2021 on the file of the Respondent Police.

For Petitioner : Mr.V.Manimaran
for Mr.V.R.Appaswamee

For Respondent : Mr.A.Gopinath,
Government Advocate (Crl.Side)

ORDER

(The case has been heard through video conference)

Crime No.3 of 2021 on the file of All Women Police Station, Cheyyar, is the nucleus of this matter. There are 7 accused in all in this case and alleged offences are under Sections 363, 365, 366 (A), 109, 120(B), 376(2) (n) of the 'Indian Penal Code, 1860' ('IPC' for the sake of brevity) and Sections 4 & 6 of Protection of Child from Sexual Offences Act, 2012 and Section 9 of Prohibition of Child Marriage Act 2006.

2. Mr.V.Manimaran, learned counsel representing the counsel on record for petitioner submits that the other accused namely A1 to A6 were secured, remanded and thereafter, enlarged on bail vide orders dated 27.05.2021 and 20.05.2021 in Crl.O.P.No.9638 of 2021 and Crl.O.P.No.9437 of 2021 respectively made by another Hon'ble Judge.

3. When this matter earlier came up before this Court on 04.06.2021, this Court directed State Counsel to file a status report

with particular reference to the minor girl. Pursuant to this directive of this Court, State Counsel has today filed status report from the jurisdictional Deputy Superintendent of Police being status report dated 07.06.2021. This Court is informed that the Deputy Superintendent of Police is the Investigation Officer qua above alleged crime.

4. Paragraph 9 of status report is relevant and the same reads as follows:

'9. It is submitted that now the victim is under the custody of Defacto Complainant/Mother of the victim (i.e.) No.27, Pattai Street, Nambedu Villge, Thiruvannamalai.'

5. The above paragraph brings to light that the minor girl is now in the custody of her mother, who is the *de facto* complainant.

6. In the light of the aforementioned undisputed narrative and in the light of the position that A7 is a distant relative of A1 coupled with the undisputed position that all other accused i.e., A1 to A6 have already been secured, remanded, incarcerated and enlarged on bail (as mentioned supra), this Court is inclined to accede to the prayer for anticipatory bail albeit on conditions adumbrated infra.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance before the **learned Special Court for Exclusive Trial of cases under POCSO Act, Thiruvannamalai**, on condition that the petitioner shall 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 jurisdictional Magistrate on or before 05.07.2021 or within a fortnight from the date of resumption of work of acceptance of sureties by the jurisdictional Magistrate whichever is later and on further conditions that:

(a) the petitioner and the sureties shall affix their photographs and left thumb impressions in the surety bonds and the learned Magistrate may demand production of their Aadhar cards or Bank pass Books to ensure/verify their identities;

(b) the petitioner to appear before the Deputy Superintendent of Police, Cheyyar Sub-Division, T.V.Malai District, on Mondays and Fridays for a period of three weeks commencing from 14.06.2021. While the petitioner appears, all Covid-19 protocols to be followed strictly by all concerned.

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

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

(e) if there is 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 itself as per **P.K.Shaji** principle being law laid down by Hon'ble Supreme Court in **P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]**;

and

(f) though obvious it is made clear that if the accused/petitioner herein thereafter absconds, consequences ingrained in Section 229-A of Indian Penal Code, 1860 will follow wherever applicable.

-sd/-

08/06/2021

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

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
CHEYYAR,
THIRUVANNAMALAI DISTRICT.

4 THE DEPUTY SUPERINTENDENT OF POLICE
CHEYYAR SUB-DIVISION,
T.V.MALAI DISTRICT.

+1 CC to M/S.V.R.APPASWAMEE Advocate on payment of necessary
charges SR.NO.6405

CRL OP.9912/2021

Date :08/06/2021

TA-30/06/2021