IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.10854 of 2021

Sakthivel @ Velu ... Petitioner

Vs.

State rep.by
The Inspector of Police,
AWPS, Attur
C.No.11 of 2017 ... Respondent

PRAYER: Criminal Original petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioner on bail in old SSC.No.110 of 2018 and New SSC.No.149 of 2019 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Salem in Cr.No.11 of 2017 on the file of AWPS, Attur, Salem District.

For Petitioner : Mr. T. Ganesan

For Respondent : Mr. A. Gopinath
Government Advocate

ORDER

The petitioner who was arrested on 18.02.2021 and remanded to judicial custody for the offences under Sections 363 and 366 and Sections 4 r/w 3 of POCSO Act and Section 506(i) of I.P.C in Cr.No.11 of 2017 on the file of the respondent police, seeks bail.

2. It is the case of the prosecution that the petitioner was implicated for the offence under under Sections 363 and 366 and Section 4 r/w 3 of POCSO Act and Section 506(i) of I.P.C in Cr.No.11 of 2017. Subsequently, the petitioner was enlarged on default bail. When the case was posted for hearing he did not appear before the Court. Accordingly, the lower Court issued Non Bailable Warrant against the petitioner for his non appearance and he was secured on 18.02.2021.

3.The learned counsel appearing for the petitioner submits that already the petitioner was enlarged on default bail by the concerned lower Court, however, his non appearance before the lower Court is neither willful nor wanton, due to some unavoidable circumstances he

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was unable to appear before the lower Court. Hence, Non Bailable Warrant was issued against the petitioner.

4.The learned Additional Public Prosecutor submits that there is no previous case as against the petitioner.

5. Considering the period of incarceration suffered by the petitioner and also the present COVID-19 pandemic situation, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent of the Central Prison, Salem, in which the petitioner is confined and on such execution the petitioner shall be released from prison;

(b) Within a period of four weeks after the release, the petitioner shall execute a bond for 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, Salem.

(c) In case of any difficulty in executing the said bond along with the sureties before the concerned Magistrate within the time stipulated above, the petitioner is permitted to file appropriate petition within a period of four week therefrom before the concerned Magistrate for extension of time for executing the bond along with sureties and if any such application is filed, the concerned Magistrate shall decide on the grant of extension of time for accepting the bond and sureties in accordance with law. Failing filing of any such application within the time prescribed above, the bail granted by this Court would stand automatically vacated.

(d)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;

(e)the petitioner shall report before the respondent police, daily at 10.30 a.m. until further orders;

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

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

(h)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

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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;

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

-sd/-
24/06/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SPECIAL COURT FOR
EXCLUSIVETRIAL OF CASES UNDER POCSO ACT,
SALEM

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

3 THE INSPECTOR OF POLICE,
AWPS, ATTUR, SALEM DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.T.GANESAN Advocate on payment of necessary charges

CRL OP.10854/2021

Date :24/06/2021

RVR 25/06/2021

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