

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.21010 of 2020

Arpudham @ Arpudharaj

... Petitioner

Vs.

The State Rep. by
The Station House Officer,
All Women Police Station,
Villupuram.
(Crime No.20 of 2016)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in New Spl. SC.No.8 of 2019 (Old Spl. Sessions Case No.31 of 2017) pending on the file of the Sessions Judge , Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram.

For Petitioner : Mr. D.Kumaralingam

For Respondent : Mr.M. Prabavathy,
APP

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 18.09.2020 for the offence punishable under Sections 294(b), 506(i), 417 of IPC r/w. Section 6 of POCSO Act 2012, in New Spl. Sessions Case No.8 of 2019 , seeks bail.

2. It is a case of jumped bail. The petitioner, who is the first accused, is facing trial in New.Spl. SC.No.8 of 2019(Old Spl. Sessions Case No.31 of 2017) pending on the file of the Sessions Judge , Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram. Since he did not appear before the trial Court on 03.05.2019, the learned Sessions Judge had issued Nonailable Warrant against the petitioner, pursuant to which, the petitioner was arrested and remanded to judicial custody on 18.09.2020. Hence, he prays to grant bail.

3. The learned counsel for the petitioner would submit that the petitioner has been regularly appearing before the trial Court and that only, on 03.05.2019, the petitioner was unable to appear before the Trial Court due to illness. Therefore, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor vehemently opposed stating that the case is pending for trial from the year 2017 and since the petitioner did not appear before the Trial Court on 03.05.2019, the Trial Judge issued NBW against the petitioner. She would further submit that now trial commenced and 6 witnesses were examined and 10 more witnesses are yet to be examined.

5. Considering the facts and circumstances of the case, and also considering the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioner subject to the following 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 Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram, 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 shall appear before the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram. on all the date of hearings, without fail;

(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 SCW 5560];

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

6. With the above directions, this Criminal Original Petition is ordered.

-sd/-
08/01/2021

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 SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, VILLUPURAM.

2 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE STATION HOUSE OFFICER,
ALL WOMEN POLICE STATION,
VILLUPURAM.

+1 CC to M/S. D.KUMARALINGAM Advocate on payment of necessary charges SR.No.232

CRL OP.21010/2020

Date :08/01/2021

cs 11/01/2021

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