



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Cr1.O.P.No.21495 of 2021

Kumar

... petitioner

Vs.

The State rep by
The Inspector of Police,
Thammampatty Police Station,
Salem District.
Crime No.486 of 2013

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioner on bail pending trial in New Spl.S.C.No.138 of 2019, on the file of the Special Court for Exclusive POCSO Cases, Salem.

For petitioner : Mr.W.Camyles Gandhi

For Respondent : Mr.N.S.Suganthan
Government Advocate

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 18.09.2021 for the offences under Sections 363, 366(a) of IPC, 5 (1), 6(m) r/w 6 of POCSO Act 2012 and 9 of Prohibition of Child Marriage Act, 2006 in Crime No.486 of 2013, on the file of the respondent police in New Spl.S.C.No.138 of 2019 on the file of the Special Court for Exclusive POCSO Cases, Salem, seeks bail.

2. It is a case of jumped bail. The petitioner was arrested on 18.09.2021 pursuant to the Non Bailable Warrant issued against him.

3. The learned Counsel for the petitioner submitted that it is the case of the year 2013 and that the petitioner was confined in prison for more than 6 years. Thereafter, he was released on bail following which, the petitioner was regularly appearing before the



trial Court. While so, the petitioner suffered with Viral fever due to which, the petitioner was unable to appear before the Court on 27.11.2019 and he was not in a position to inform his Counsel also and thereby, the learned Judge ordered Non Bailable Warrant against the petitioner following which, the petitioner was arrested on 18.09.2021 and that he has been suffering incarceration for more than 60 days from 18.09.2021. He further submitted that the petitioner is prepared to appear regularly before the trial Court and to co-operate for the trial. Hence, he seeks for grant of bail to the petitioner.

4. The learned Government Advocate raised objection stating that with great difficulties the respondent police have executed the non bailable warrant and if the petitioner is released on bail, there is every possibility that the petitioner would get abscond and the trial would get stalled. Further, he would submit that there are totally 19 witnesses in this case and due to abscondance of the petitioner, only 2 witnesses have been examined so far and now the case is posted on 29.11.2021.

5. It is seen that the sessions case is of the year 2019. Trial also began. Considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

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, each for a like sum to the satisfaction of the learned Special Judge for Exclusive Trial of POCSO Cases, Salem and on further conditions 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 report before the trial Court every Monday and also the Court hearings at 10.30 a.m. until further orders.

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

(d) the petitioner shall not abscond during 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.

7. The learned Special Judge for Exclusive Trial of POCSO Cases, Salem, is directed to complete the trial in New Spl. S.C.No.138 of 2019 within a period of three months from the date of receipt of copy of this order.

-sd/-

17/11/2021

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 TRAIL OF POCSO CASES,
SALEM

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
THAMMAMPATTY POLICE STATION,
SALEM DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

+1 CC to M/S. W.CAMYLES GANDHI Advocate on payment of necessary charges SR.No.12900

CRL OP.21495/2021

Date :17/11/2021

APN 17/11/2021