



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 12/08/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.11321 of 2021

Mohana Sundharam

... Petitioner/Accused

Vs

The State Rep.by
The Inspector of Police,
Thiruvadanai All Women Police Station,
Ramanathapuram District.
Spl.SC.No.18 of 2018.

... Respondent/Complainant

For Petitioner : Mr.R.Murali,
Advocate.

For Respondent : Mr.T.Senthilkumar,
Government Advocate (Crl.Side)

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

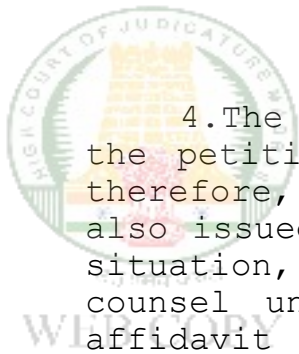
PRAYER :- To release the petitioner on Bail in Spl.S.C.No.18 of 2018 on the file of the Session Judge (Fast Track Mahila Court) Ramanathapuram.

ORDER : The Court made the following order :-

The petitioner is facing a charge for the offences under Sections 323, 366, 506(i) I.P.C and Section 5(1), 6 of POCSO Act in Spl.S.C.No.18 of 2018 before the Sessions Judge (Fast Track Mahila Court) Ramanathapuram.

2. The final report in the special sessions case was filed in the year 2018. When the case was posted for trial, the petitioner appears to have absconded on 18.01.2019 and therefore, a Non-Bailable Warrant was issued against him and he was arrested only on 15.07.2021. Hence, the petitioner seeks bail.

3.The learned Government Advocate (Crl.side) appearing for the respondent police would submit that when the case was posted for trial, the petitioner did not appear on 18.01.2019 and therefore, a Non-Bailable Warrant was issued against him but, he was arrested only on 15.07.2021. Hence, he opposes the grant of bail to the



4.The learned counsel appearing for the petitioner submits that the petitioner was not informed about the exact hearing date and therefore, he failed to appear on 18.01.2019 and the trial Court has also issued a Non Bailable Warrant. Thereafter, due to the pandemic situation, he could not appear before the trial Court. The learned counsel undertakes that the petitioner will file an undertaking affidavit before the trial Court that he will appear before the trial Court regularly on all future hearing dates without filing an application under Section 317 Cr.P.C.

5.Considering the facts and circumstances of the case, the fact that the petitioner is ready to file an undertaking affidavit before the trial Court that he will appear before the trial Court regularly on all future hearing dates without filing an application under Section 317 Cr.P.C and the period of incarceration of the petitioner, this Court is inclined to grant bail to the petitioner.

6. Accordingly, this Criminal Original Petition is allowed and 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 Sessions Judge (Fast Track Mahila Court), Ramanathapuram 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 Aadhaar card or bank pass book to ensure their identity.

[b] The petitioner shall file an undertaking affidavit before the trial Court that he will appear before the trial Court regularly on all future hearing dates without filing an application under Section 317 Cr.P.C.

[c] the petitioner shall appear before the trial Court on all hearing dates without fail.

[d] the petitioner shall not tamper with the evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] 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]**.

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.



7. Since the final report has been filed in the year 2018 itself, the trial Court is directed to complete the trial as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order.

WEB COPY

sd/-
12/08/2021

/ TRUE COPY /

/ /2021

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1 THE SESSIONS JUDGE,
(FAST TRACK MAHILA COURT), RAMANATHAPURAM.
- 2 THE INSPECTOR OF POLICE,
THIRUVADANAI ALL WOMEN POLICE STATION,
RAMANATHAPURAM DISTRICT.
- 3 THE SUPERINTENDENT, CENTRAL PRISON,
MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

THE REGISTRAR (JUDICIAL),
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.11321 of 2021
Date : 12/08/2021

MSA
MS/PN/SAR-2/12.08.2021/3P.6C