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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2022

CORAM:

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

Cr1.O.P.No.1659 of 2022

Raja

... Petitioner

Vs.

The Inspector of Police,
W-8, All Women Police Station,
Tirumangalam, Chennai.
(Crime No.7 of 2018)

...Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on Bail in S.C.No.376 of 2018 pending trial before Special Court for Exclusive Trial of Cases under POCSO Act, Chennai.

For petitioner : Mr.R.Mukesh Kannah

For Respondent : Mr.A.Gokula Krishnan
Additional Public Prosecutor

ORDER

The petitioner who was arrested and remanded to judicial custody on 27.09.2021 for the alleged offences under Section 366 of IPC and r/w 4 of POCSO Act in Crime No.7 of 2018, seeks bail.

2. It is a case of jumped bail. The petitioner was arrested on 27.09.2021 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 2018 and he was regularly appearing before the Court. Thereafter, the petitioner due to health issues, he was unable to appear before the Court and thereby, the learned Judge ordered Non Bailable Warrant against the petitioner following which, the petitioner was arrested on 27.09.2021 and that he has been suffering incarceration for 123 days from 27.09.2021. 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 the petitioner was not appeared before the Court nearly 3 years and if the petitioner is released on bail, there is every possibility of the petitioner getting abscond and the trial would get stalled.

5. It is seen that the case is of the year 2018. 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. Considering the facts and circumstances of the case and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with conditions.

[a] the Petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the petitioner has been confined and thereafter on his release;

[b] the petitioner shall execute two sureties each like sum for a sum of Rs.10,000/- (Rupees Ten Thousand only), before the Special Court for Exclusive Trial of Cases under POCSO Act, Chennai within 15 days from the date of commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically;

(c) 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;

(d) the petitioner shall appear before the respondent police on every Wednesday at 10.30 a.m. until further orders and the petitioner is also directed to appear before the trial Court on all hearings without fail and co-operate for trial

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

(f) the petitioner shall not abscond during trial;

(g) 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;



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

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-sd/-

27/01/2022

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,
CHENNAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON-II,
PUZHAL, CHENNAI.

3 THE INSPECTOR OF POLICE
W-8 ALL WOMEN POLICE STATION,
TIRUMANGALAM, CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S R.MUKESH KANNAH Advocate on payment of necessary charges

CRL OP.1659/2022

Date :27/01/2022

RW 28/01/2022