



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P. No.4111 of 2022

D.Saminathan

... Petitioner / Accused

versus

**(*)State Rep. by
The Inspector of Police,
Attur Police Station,
Salem District.**

(Crime No.961 of 2014)

... Respondent / Complainant

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C., praying to enlarge the petitioner on bail, pending trial in Spl.S.C.No.16 of 2019 on the file of Special Court for Exclusive Trial of Cases under POCSO Act, Salem.

For Petitioner : Mr.W.Camyles Gandhi

For Respondent : Mrs.G.V.Kasthuri
Additional Public Prosecutor
(DATED 25.02.2022)

: M/S.LEONARD ARUL JOSEPH SELVAM,
Govt. Advocate (Cr1. Side)
(DATED 29.03.2022)

O R D E R

The petitioner, who was arrested and remanded to judicial custody on 26.11.2019, pursuant to the NBW issued by the learned Special Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Salem in Spl.S.C.No.16 of 2019, for the offences punishable under Sections 363, 366 of IPC and Section 5(I) r/w 6 of POCSO Act, 2012 in Crime No.961 of 2014, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner is an accused in Spl.S.C.No.16 of 2019 on the file of the learned Special Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Salem. Since the petitioner has not attended the court proceedings, NBW was issued against him. Afterwards, he was secured on 29.11.2019 and thereafter, he is still in judicial custody.



3. The learned counsel appearing for the petitioner would submit that due to poverty, in order to save his life, he migrated to the neighbouring State and when at the time, he was returned to his native, the respondent police secured him. Further, the petitioner is ready to abide any condition imposed by this Court and he is in judicial custody from 29.11.2019 onwards. Hence, he prays for bail.

4. The learned Additional Public Prosecutor appearing for the respondent police raised objection stating that, if this petitioner is released on bail, he may try to tamper the witness and hamper the investigation.

5. Considered the submissions made by the learned counsel appearing on either side. Admittedly, the petitioner is an accused in Spl.S.C.No.16 of 2019 on the file of the learned Special Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Salem and the said case is posted for trial. Though the petitioner was secured in the year of 2019, there was no progress made in the above referred case. The petitioner is the first time offender.

6. Therefore, taking note of all the above said aspects and also considering the fact that the petitioner is in incarceration from 29.11.2019, this Court is inclined to grant bail to the petitioner subject to certain conditions. Accordingly, the petitioner is ordered to be released on bail subject to the following conditions;

(a) the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, [one surety must be Government employee working in Tamilnadu Government and drawing minimum salary of Rs.40,000/-], each for a like sum to the satisfaction of the learned Special Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Salem;

(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 is directed to appear before the learned Special Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Salem, daily at 10.30 a.m. until further orders;

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

(e) 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];

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

-sd/-

25/02/2022

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.

[*]Amended as per order of this court dated 29.03.2022 made in Crl.MP.NO.4104/2022 in Crl.O.P.No. 4111/2022

TO

1 THE SPECIAL SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, SALEM.

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

**(*) 3 THE INSPECTOR OF POLICE,
ATTUR POLICE STATION,
SALEM DISTRICT.**

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

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S W.CAMYLES GANDHI Advocate on payment of necessary charges SR.NO. 4658

CRL OP.4111/2022

Date :25/02/2022

RVR 28/02/2022

RW 05/04/2022