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CrI.OP.No.19496 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2022

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THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.OP.No.19496 of 2022

Siva @ Sivakumar

..Petitioner

Vs.

State Rep. by Inspector of Police,
Yethapur Police Station,
Salem District.
(Crime No.384 of 2016)

..Respondent

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to grant bail to the petitioner for pending trial in Spl.S.C.No.145 of 2019 on the file of the learned Special Court for Exclusive Trial of cases under POCSO Act, Salem, Salem District.

For petitioner	: Mr.E.Kannadasan
For Respondent	: Mr.A.Gopinath
	Government Advocate (Criminal Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody on 29.06.2022 on execution of Non-Bailable Warrant issued by



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the learned Special Court for Exclusive Trial of cases under POCSO Act, Salem, Salem District, for the offence under Sections 451, 341 of IPC r/w. Section 4 r/w. 3 of Protection of Children from Sexual Offence Act, 2012 in Spl.S.C.No.145 of 2019, seeks bail.

2. The learned counsel appearing for the petitioner would submit that the petitioner regularly appeared on all hearings before the Trial Court and he did not appear for only one hearing on 03.03.2022. Immediately after coming to know about the NBW, the petitioner voluntarily surrendered for recall of the NBW. But, the petition was dismissed by the learned Special Court for Exclusive Trial of cases under POCSO Act, Salem, Salem District, for the reason that the petitioner mentioned in the surrender petition stating that due to illness, he could not appear on the date of hearing and no documents were filed to show that the petitioner is affected with illness and he also failed to state any reason for not filing any application under 317 of Cr.P.C. He further submitted that the absence of the petitioner is neither wilful nor wanton and he prays for grant of bail to the petitioner.



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3. The petitioner was arrested and released on bail for the offence under Sections 451, 341 of IPC r/w. Section 4 r/w. 3 of Protection of Children from Sexual Offence Act, 2012. Thereafter, he was absent before the trial Court on 03.03.2022 and NBW was issued. Immediately, he filed a petition for recall of NBW on 21.06.2022. However, the same was dismissed and the petitioner was remanded to judicial custody.

4. Considering the above facts and circumstances of the case, this Court is inclined to grant bail to the petitioner. 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 Court for Exclusive Trial of cases under POCSO Act, 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 shall report before the trial Court twice daily



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at 10.30 a.m. and 5.30 p.m., for a period of six weeks and thereafter on all further hearing dates.

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

[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 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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To

- 1.The Special Court for Exclusive Trial of cases under POCSO Act,
Salem, Salem District.
2. The Inspector of Police,
Yethapur Police Station,
Salem District.
- 3.Central Prison,
Salem.
- 4.The Public Prosecutor,
High Court of Madras

G.K.ILANTHIRAIYAN, J.

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