



Crl.O.P.No.1241 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.01.2023

CORAM :

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

Crl.O.P.No.1241 of 2023

Mahendran,
S/o.Periyasamy

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
Belukurichi Police Station,
Namakkal Dt.
(Crime No.184 of 2019)
Respondent

...

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in pending trial in Spl.C.C.No.5 of 2020, on the file of the Sessions (Fast Track Mahila) Judge, Namakkal.

For Petitioner : Mr.W.Camyles Gandhi

For Respondent : Mr.S.Vinoth Kumar,



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Govt. Advocate (Crl.Side.)
ORDER

The petitioner, who was arrested and remanded to judicial custody on 03.12.2021 for the offences under **Sections 12, 11(4) of POCSO Act, and 506(i) of I.P.C.** in Crime No.184 of 2019, on the file of the respondent police, pending trial in Spl.C.C.No.5 of 2020 on the file of the learned Sessions Judge, (Fast Track Mahila) Judge, Namakkal, seeks bail.

2. It is a case of jumped bail. The petitioner was arrested and remanded to judicial custody on 03.12.2021 on execution of non bailable warrant issued against him.

3. The learned counsel for the petitioner would submit that the petitioner was earlier granted bail and thereafter, he was regularly appearing before the trial Court. On 29.11.2019, he was unable to appear before the Court and hence, the learned Magistrate issued non bailable warrant against the petitioner following which, the petitioner was arrested and remanded to judicial custody on 03.12.2021. He would submit that the petitioner has been suffering incarceration for more than 1 year 2 months from 03.12.2021. He would further submit that this is the second



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petition seeking for bail and the petitioner is ready to appear before the Court regularly and to co-operate for the trial. Hence, he prayed to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) raised objection stating that when he did not appear before the trial Court on 29.11.2019, non bailable warrant was issued against him and through PT warrant only, he was arrested on 03.12.2021. He would submit that after securing him, now the trial is in progress and P.W.1 was examined and within 2 months, they will complete the trial. Hence, if he is released on bail, he may abscond and the trial would be stalled.

5. Considering the above facts and circumstances of the case and the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions. **However, the trial court is directed to complete the trial and dispose the case within a period of two months from the date of receipt of copy of this order.**

6. Accordingly, the petitioner is ordered to be released on bail on his executing 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



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learned Session Judge, Fast Track Mahila Court, Namakkal, and on further conditions that:

(a) 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;

(b) the petitioner shall appear before the respondent police on every Wednesday and Sunday at 10.30 a.m. for the period of three months and thereafter, he shall appear before the trial court for every hearing regularly without fail.

(c) the petitioner shall not commit any offences of similar nature;

(d) the petitioner shall not abscond during trial;

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

(f) 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];



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

7. With the above directions, this Criminal Original Petition is
ordered.

23.01.2023

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To

1. The Sessions Judge,
Fast Track Mahila Court, Namakkal.
2. Inspector of Police,
Belukurichi Police Station, Namakkal Dt.
3. The Superintendent of Prison,
Central Prison, Salem.
4. The Public Prosecutor,
High Court of Madras, Chennai.



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T.V. THAMILSELVI, J.

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