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Crl.O.P.No.5412 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2023

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THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.No.5412 of 2023

Chinnathambi @ Palanivel

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Karumalaikoodal Police Station,
Salem District.

(Crime No.1636 of 2000).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail, in P.R.C.No.1 of 2002 pending
investigation on the file of the learned Judicial Magistrate-II, Mettur, Salem
District.

For Petitioner : Mr.E.Sathiyaraj

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



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ORDER

Criminal Original Petition has been filed seeking to enlarge the petitioner herein, on bail in P.R.C.No.1 of 2002, on the file of the learned Judicial Magistrate-II, Mettur, Salem, in connection with the Crime No.1636 of 2000, on the file of the respondent Police.

2. Learned counsel for the petitioner submitted that the petitioner is an innocent person, who was arrayed as A5 in this case. He further submitted that the petitioner was not aware of the his implication in this case, whereas, the respondent after completing investigation has filed the final report in P.R.C.No.6 of 2001 stating that the petitioner is an absconding accused, thereafter, no summons were issued to the petitioner. He further submitted that the trial Court, on finding that the petitioner is an absconding accused, issued a non-bailable warrant against him on 09.01.2002 and also split up the case against the petitioner and numbered as P.R.C.No.1 of 2002 and in respect of other accused, the case has been committed in Spl.S.C.No.49 of 2002 and they have been acquitted by the trial Court on 31.01.2005.



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3. He further submitted that it is a case of love affair between A1 and the victim girl and the A1 has kidnapped the victim girl and alleged to have committed penetrative sexual assault on the her and other accused have abetted A1 in the alleged crime. He also stated that since because the respondent suspects that the petitioner is the friend of A1, implicated him in this case. He also stated that the petitioner is in custody from 12.01.2023 and he is ready to furnish adequate sureties and also ready to co-operate for speedy disposal of the trial. Therefore, he prays for grant of bail to the petitioner.

4. Learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner is arrayed as A5 in Crime No.1636 of 2000. He further submitted that the respondent during the course of investigation, has not arrested A5 and filed the final report stating that A5 is an absconding accused. He further submitted that the trial Court has issued a non-bailable warrant against the petitioner on 09.01.2002 and also split up the case against the petitioner and numbered as P.R.C.No.1 of 2002 and in respect of other accused, the case has been committed in Spl.S.C.No.49 of



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2002 and trial Court had acquitted the other accused on 31.01.2005. He also stated that the case against the petitioner has been taken up in Spl.S.C.No.59 of 2023. Therefore, he opposed to grant bail to the petitioner.

5. Heard the learned Counsel for the petitioner and the learned Additional Public Prosecutor and perused the materials available on record.

6. It is the case where the petitioner was not arrested during the course of investigation, however, absconding charge sheet has been filed against him and later, non-bailable warrant has been issued against him. Further, the co-accused in this case have also been acquitted in Spl.S.C.No.49 of 2002.

7. Taking into consideration the above facts and circumstances of the case and the submissions made by either side of the parties and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions



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8. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.25,000/- (Rupees Twenty five thousand only)** with **two blood related sureties** (who should produce document to show his/her means), each for a like sum to the satisfaction of the **learned Judicial Magistrate-II, Mettur, 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 appear before the trial Court, on all working days at 10.30 a.m., until further orders;

[c] the petitioner shall not abscond during trial;

[d] the petitioner shall not tamper with evidence or witness during 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]***;



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[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

9. Further, the learned trial Judge is directed to complete the trial in Spl.S.C.No.59 of 2023 as expeditiously as possible, preferably, within a period of three months from the date of receipt of a copy of this order.

08.03.2023

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To

1. The Judicial Magistrate-II, Mettur,
Salem District.
2. The Session Judge,
Special Court for Exclusive Trial under POCSO Act,
Salem
3. The Inspector of Police,
Karumalaikoodal Police Station,
Salem District.
4. The Central Prison,
Salem.
5. The Public Prosecutor,
High Court of Madras.

A.D.JAGADISH CHANDIRA.,J.



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