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Crl.O.P.No.7248 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.04.2023

CORAM :

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

Crl.O.P.No.7248 of 2023

1. Palaniyandi
S/o. Murugan

2. Balachandar,
S/o. Palaniyandi

.. Petitioners

Vs.

State represented by
The Inspector of Police,
All Women Police Station,
Ariyalur, Ariyalur Dt.
(Crime No.20 of 2021)

.. Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioners on bail in Crime No.20 of 2021 on the file of respondent police.

For Petitioners : Mr.R.Prabakar

For Respondent : Mr.S.Vinoth Kumar
Govt. Advocate (Crl. Side)



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CrI.O.P.No.7248 of 2023

ORDER

The petitioners, who were arrested and remanded to judicial custody on 14.11.2022 for the alleged offence under Sections 376(3) of I.P.C. Sec.5(1) r/w 6, 17 of POCSO Act, 2012 and Section 9 and 10 of Child Marriage Act, 2006 in Crime No.20 of 2021 on the file of the respondent police and the trial is pending in Spl.S.C.No.49 of 2021 on the file of learned Fast Track Mahila Sessions Court, Ariyalur, seeks bail.

2. It is a case of jumped bail. The petitioners were arrested and remanded to judicial custody on 14.11.2022 on execution of non bailable warrant issued against them.

3. The learned counsel for the petitioners would submit that the petitioners were earlier granted bail and thereafter, they were regularly appearing before the trial Court. On 02.08.2022, they were unable to appear before the Court and hence, the learned Magistrate issued non bailable warrant against the petitioner following which, the petitioners were arrested and remanded to judicial custody on 14.11.2022. He would



Crl.O.P.No.7248 of 2023

submit that the petitioners have been suffering incarceration from 14.11.2022 and this is the second petition seeking for bail. He would further submit that now the trial is almost over and the case is posted for judgment. Hence, he prayed to grant bail to the petitioners.

4. The learned Government Advocate (Crl. Side) raised objection stating that when they did not appear before the trial Court on 02.08.2022, non bailable warrant was issued against them and they have surrendered on 14.11.2022. He would submit that totally there are 10 accused involved in this case and the petitioners are arrayed as A2 and A4. He would submit that both side evidence was closed and now the case is posted for judgment. Now, if they are released on bail, they may abscond and the trial would be stalled.

5. Considering the above facts and circumstances, and also considering the fact that the both side evidence was closed and the case is posted for judgement and also on considering the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners subject to the following conditions:



Crl.O.P.No.7248 of 2023

WEB COPY

6. Accordingly, the petitioners are ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each, **in which one surety must be a blood surety**, for a like sum to the satisfaction of the **learned Fast Track Mahila Sessions Court, Ariyalur**, 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 petitioners shall appear before the trial court daily at 10.30 a.m. until passing of judgment and he shall not leave his native place until pronouncement of judgment ;

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

(d) the petitioners shall not abscond either during investigation or trial;

(e) the petitioners shall not tamper with evidence or witness either during investigation or trial;



Crl.O.P.No.7248 of 2023

WEB COPY

(f) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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];

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

05.04.2023

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To

1. The Fast Track Mahila Sessions Court,
Ariyalur.
2. Inspector of Police,
All Women Police Station,
Ariyalur, Ariyalur Dt.
3. The Superintendent of Prison,
Central Prison, Trichy.
4. The Public Prosecutor,
High Court of Madras, Chennai.



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Crl.O.P.No.7248 of 2023

T.V. THAMILSELVI, J.

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Crl.O.P.No. 7248 of 2023

05.04.2023