



W.P.No.325 of 2024

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.325 of 2024

Neela

... Petitioner

Vs.

1.The Superintendent of Police,
Villupuram, Villupuram District.

2.The State rep.by
The Inspector of Police,
All Women Police Station,
Thirukoilur, Villupuram District.

3.Arulraj @ Arulmurugan
4.Krishnan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for the issue of writ of Mandamus directing the 1st and 2nd respondent to give adequate police protection to the petitioner and the daughter Priyadharsini (victim), till the disposal of the case in Spl.S.C.No.02/2021 on the file of the Special Court for POCSO Act cases Villupuram pursuant to the representation dated 01.04.2023.

For Petitioner : Mr.K.Thenrajan
For RR1 and 2 : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

This writ petition has been filed for the issue of writ of Mandamus directing the respondents 1 and 2 to give adequate police protection to the petitioner and her daughter / victim till the disposal of the case in Special S.C.No.2 of 2021 pending on the file of the Special Court for POCSO cases, Villupuram.

2. When the case came up for hearing on 10.01.2024, this Court passed the following order:

"This writ petition has been filed for a direction to the 1st and 2nd respondents to provide police protection to the petitioner and daughter who is the victim in this case pending disposal of the case in Spl.S.C.No.2 of 2021.

2.The specific case of the petitioner is that her daughter who is a mentally challenged child was sexually abused by the 3rd respondent and hence, the complaint came to be given on 22.01.2020, which resulted in registration of an FIR in Crime No.3 of 2020. On the completion of the investigation, a final report was filed before the Special Court which was taken on file in Spl.S.C.No.2 of 2021.

3.The grievance of the petitioner is that the 3rd respondent/accused is absconding and he along with his father who is the 4th respondent is now causing threat to the petitioner to withdraw the case. That apart, there is a non-bailable warrant pending against the 3rd respondent which is yet to be executed. As a result, there has been absolutely no progress in this case in spite of



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the earlier order passed by this Court in Crl.O.P.No.16102 of 2023, dated 19.07.2023.

4.The learned Judge of the Special Court for POCSO Act cases, Villupuram is directed to place a report before this Court containing the following particulars:

a)Whether the accused was remanded to judicial custody during the pendency of the investigation and under what circumstances, the bail was granted in favour of the accused person.

b)When was the non-bailable warrant issued against the 3rd respondent/accused and what steps were taken by the Court to ensure that the non-bailable warrant is executed and

c)If the accused person is absconding after he was enlarged on bail, why no steps were taken to cancel the bail and to secure the accused person. That apart, why no steps were taken to register an FIR against the accused person under Section 229A of IPC.

5.The report shall reach this Court before the next date of hearing.

6.Post this case under the caption 'For Passing Further Orders' on 24.01.2024. In the meantime, the learned Additional Public Prosecutor shall take instructions."

3. Pursuant to the above order, the learned Sessions Judge has submitted the report dated 23.01.2024. The relevant portions are extracted hereunder:

Question a) whether the accused was remanded to judicial custody during the pendency of the investigation and under what circumstances, the bail was granted in favour of the accused person.



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Answer : The accused was remanded to judicial custody on 23.01.2020. The bail application filed by the accused in Crl.M.P.No.45/2020 was dismissed by this Court on 07.03.2020. Perusal of the records would reveal that during covid-19 Pandemic, the accused had been granted suomoto interim bail by my predecessor for a period of 3 weeks. The accused had subsequently move several bail applications before the Hon'ble High Court. He had filed Crl.O.P.No.10456/2021 seeking bail before HOn'ble High Court u/s.439 Cr.P.C which was dismissed on 28.06.2021 and another bail application in Crl.O.P.NO.16195/2021 which got dismissed by the Hon'ble High Court on 07.09.2021. Again the accused had moved another bail application before Hon'ble High Court in Crl.O.P.NO.25679/2021 as if a warrant was issued by the trial Court. However, no such warrant was ever issued during the relevant period. The Hon'ble Hihg Court had dismissed Crl.O.P.No.25679/2021 on 03.01.2022.

Perusal of the court records would show that he had subsequently moved bail application u/s.438 of Cr.P.C. The bail application was dismissed by the Hon'ble High Court on 09.06.2022. The accused had never appeared / surrendered before this Court om completion of the interim bail period of 3 weeks which was granted till 21.04.2020 in suomoto Crl.M.P.No.117/2020 by my predecessor in office. However he filed various bail applications before the Hon'ble High Court and all the bail applications had been dismissed. As such, the accused has not been enlarged on regular bail.

Question B) When was the non-bailable warrant issued against the 3rd respondent / accused and what steps were taken by the Court to ensure that the non-bailable warrant is executed.



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Answer: I submit to state that I've assumed office as a Judge of Mahila Court, Villupuram in the month of May 2023 and holding full additional charge of Pocso Court, Villupuram. Since the summon had not been served upon the accused by the police from the year 2021 citing his abscondence. I have issued warrant to the accused on 13.07.2023. On issuance of warrant, I have pursued the matter promptly and had given direction to the Inspector of concerned Police Station on 12.10.2023. The Inspector of Police had also appeared before this Court and had filed several reports expressing their inability to execute the warrant, since the whereabouts of the accused is not known. A special team / squad had also been formed. CDR of the mobile number which belongs to the father of the accused was obtained by the police and the Inspector of Police / Special Public Prosecutor had submit a report stating that there was no clue regarding the whereabouts of the accused. However, the Inspector of Police had recently on 19.01.2024 filed a report stating that they will apprehend the accused in the near future with the special team. The petitioner in W.P.No.325/2024 has stated in the writ petition that the accused along with his father causing threat to her to withdraw the case. If the petitioner has any tip off regarding the whereabouts of the accused, Hon'ble High Court may kindly direct the petitioner in W.P.No.325/2024 to share it either with the Inspector / Superintendent of Police, Villupuram District, facilitating them to nab the culprit.

Question C: If the accused person is absconding after he was enlarged on bail, why no steps were taken to cancel the bail and to secure the accused person. That apart, why no steps were taken to register an FIR against the accused person under Section 229A of IPC.

Answer: I submit to state that the accused was not enlarged on regular bail. As already submitted in the



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aforesaid paragraphs, he was granted only interim bail for a period of 3 weeks. Subsequent bail applications filed by the accused had been dismissed. Neither any bond nor sureties produced by the accused before this Court. Since he was not enlarged on regular bail. As such Section 229A IPC not resorted to."

4. The 2nd respondent has also filed a Status Report and the relevant portions are extracted hereunder:

"11. It is humbly submitted that this respondent have taken necessary steps to give adequate protection to the petitioner, her daughter / victim and to the witnesses from the very beginning itself. Due to the sincere efforts taken by this respondent, till date the bail petitions filed by the petitioner were dismissed by the Hon'ble High Court and by the trial Court. In order to secure the 3rd respondent, this respondent also got CDR particulars of the accused and still this respondent is taking effective efforts to secure the petitioner / accused.

12. It is submitted that special team have been formed to secure the absconding accused consisting of 1) Tmt.Radhika, Inspector of Police 2) Tr.Sivachandran, Sub Inspector of Police 3)Tr.Veerappan Gr-1 PC 4) Tr.Baskar Gr-1 PC 5) Tr.Manimaran Gr-1PC. Hence it is false to aver in the affidavit that this respondent have not taken any steps to secure the 3rd respondent."

5. It is clear from the above report that the accused person was never enlarged on bail and infact the bail application that was filed by the



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accused person before this Court was dismissed repeatedly in CrI.O.P.No.16995/2021 and CrI.O.P.No.25679/2021. The accused thereafter has never surrendered before the Court and hence, the accused continues to be absconding. Apart from that, he is also causing threat to the petitioner and the victim girl.

6. The 2nd respondent has stated in the Status Report that necessary steps are being taken to give adequate protection to the petitioner and her daughter. That apart, a special team has been formed to secure the absconding accused and that effective steps are being taken to apprehend the accused person and to produce him before the Special Court.

7. In the light of the above development, it is made clear that the accused person shall be secured as early as possible and he shall be produced before the Special Court. Considering the attitude of the accused person, he shall be kept in judicial custody till the completion of the criminal proceedings. The respondent Police shall also ensure that sufficient protection is given to the petitioner and her daughter till the



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completion of the criminal proceedings.

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N.ANAND VENKATESH, J.

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8. This Writ Petition is disposed of with the above directions.

05.02.2024

Speaking Order/Non-speaking Order

Index : Yes/No

Neutral citation: Yes/No

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To

1. The Superintendent of Police,
Villupuram, Villupuram District.

2. The Inspector of Police,
All Women Police Station,
Thirukoilur, Villupuram District.

3. The Public Prosecutor,
High Court, Madras.