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CrI.O.P.No.16185 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.06.2025
PRONOUNCED ON : 01.07.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.16185 of 2025

Kabilan

... Petitioner

Vs.

The State Represented by,
Station House Officer,
CBCID Cuddalore PS,
Cuddalore District.
Crime No.1 of 2016.

... Respondent

PRAYER : Criminal Original Petition is filed under Section 483 of BNSS,
to enlarge the petitioner on bail Spl.SC.No.7/2020 on the file of the Special
Court for Exclusive Trial of Cases under POCSO Act, Cuddalore.

For Petitioner : Mr.V.Suresh

For Respondent : Mr.L.Baskaran,
Government Advocate (CrI. Side)



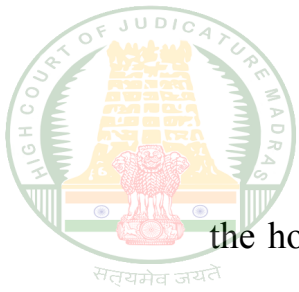
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ORDER

The petitioner arrested and remanded to judicial custody on 03.03.2025, for the offence punishable under Sections Girl Missing @ 342, 363 r/w 34 IPC, Sections 3(2)(b), 4(1) of Immoral Traffic (Prohibition) Act, 2012 @ Section 366A r/w 34, 372, 373, 370 A(1), 354(B), 342 of IPC and Sections 3 r/w 4, 5(1) r/w 6, 11 r/w 12 & 16 of Protection of Children from Sexual Offences Act, 2012 and Sections 3(2)(a), 3(2)(b), 4(1) of Immoral Traffic (Prohibition) Act, 1956 and Section 75 of Juvenile Justice Act, 2015 in connection with Special S.C.No.7 of 2020 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore, seeks bail.

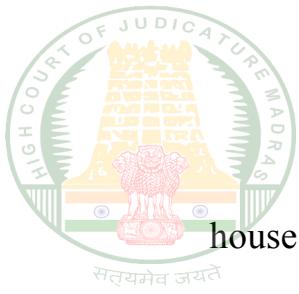
2.On 11.07.2014 at about 12.00 p.m., the defacto complainant lodged a complaint to the Inspector of Police, Thittakudi Police Station that he was a daily wager and his daughter Victim No.1, aged about 14 and one Jagadhambal's granddaughter Victim No.2, aged 13 are friends. At the time of occurrence, the defacto complainant's daughter/Victim No.1 was studying 9th standard and Victim No.2 was studying 8th standard in Thittakudi Government Girls Higher Secondary School. Both of them used to leave



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the house frequently and return after a month. They once left the house in the month of February, 2014 and returned after 20 days. In this situation, again on 08.06.2014 at around 6 p.m., the Victim No.1 informed her father/defacto complainant that she was going to the shop. Later, on inquiry, it came to know that Victim No.1 and Victim No.2 both left home again and gone somewhere. When the Victim No.1 left the house, she took cell phone with SIM card number 8760606718. When the defacto complainant called the number, she informed that she and Victim No.2 were working in Tiruppur and they would be returning back home within a week. After three days, when the defacto complainant again called the Victim No.1, she informed both of them will be returning back in two days. Thereafter, they have not returned back. Initially on the complaint of defacto complainant, dated 11.07.2014, FIR in Crime No.141 of 2014 registered under Girl Missing.

3.During investigation, it came to light that the Victim No.1 was lured by the money spend by one of her classmate which led to introduction of A3. The Victim No.1 went to the house of A3 and A3 introduced A17 at her



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house and enticed the Victim No.1 to have sex with A17. Thereafter, A3 had gone to the school where the Victim No.1 studying and insisted her to come home with her. When the Victim No.1 refused, she also threatened to reveal her secret to other students. The Victim No.1 yielded to the pressure and went with A3 to her house. A3 made the Victim No.1 to have sex with her husband (Died during investigation). Thereafter, A3 took Victim No.1 to Thozhudur, A17 again visited and had sex with Victim No.1. A3 gave Rs.300/- to Victim No.1 and took her back to Thittakudi. Later, A17 visited the house of A3 along with A14 and A15 and had sexual intercourse with Victim No.1. Then, A3 took Victim No.1 to house of A2 where A2, A3 and A16 invited some persons and made them to have sex with Victim No.1. Then, A3 insisted Victim No.1 to bring more school children. Enticed by the words of A3, Victim No.1 had brought Victim No.2 to the house of A3 and A3 enabled A14, A15 and A17 to have sex with Victim No.2. Thereafter, A18 facilitated several persons to have sex with both the children and later, both the victims sent back home with money.



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4.The allegation against the petitioner/A23 is that in the year 2014, the petitioner had left Chennai with his friend Kumar to attend his friend's wedding in Virudhachalam. At that time, they came in contact with both victims who were standing near Virudhachalam railway station and took them to Velankanni. The petitioner and his friend booked a room in a lodge committed penetrative sexual assault on both victims, on several occasions.

5.The father of victim I filed a petition in W.P.No.27995 of 2014 seeking transfer of investigation from the Inspector of Police, Thittakudi Police Station to Central Bureau of Investigation. This Court, by order, dated 30.04.2015 disposed the writ petitioner directing transfer of investigation to CBCID/respondent Police. Thereafter, the respondent Police examined several witnesses and collected documents, on completion of investigation, charge sheet filed before the trial Court against A1, A2, A3, A4, A5, A6 (Died during trial), A7, A8, A9, A10, A11, A12, A13, A14, A15, A16, A17, A18, A19, A20, A21 & A22 (Died during investigation) and absconding charge sheet in Spl.S.C.No.20 of 2018 against the petitioner/A23. On conclusion of trial of the mother case, the trial Court



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convicted A2, A3, A4, A5, A7, A9, A11, A12, A13, A14, A15, A16, A17, A18, A19, A20 & A21 and acquitted A10. Since A1 & A8 were absconded before judgment, NBW issued against them. Since the petitioner was absconding right from the initial stage of the case, absconding charge sheet filed, the trial Court split up the case and assigned Special S.C.No.7 of 2020. Challenging the conviction, the convicted accused A2, A3, A4, A7, A9, A11, A12, A13, A10, A14, A15, A16, A17, A18 & A19 filed criminal appeals before this Court. This Court by common judgment, dated 16.07.2024 allowed the appeals filed by A4, A9 to A11 and A13 to A19 and partly-allowed the appeals filed by A2, A3, A7 and A12. Challenging the same, the State decided to approach the Hon'ble Apex Court and to file SLP.

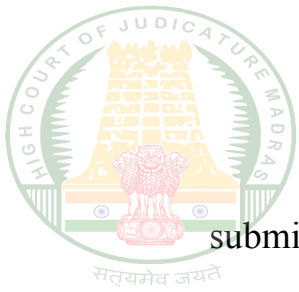
6.At this stage, the petitioner arrested and remanded to judicial custody on 03.03.2025, the petitioner filed a bail application before the trial Court in Crl.MP.No.198 of 2025 in Special S.C.No.7 of 2020. The trial Court finding the petitioner absconding for years, seriousness of the allegation and long pendency of the case, dismissed the bail application on 16.04.2025. Against which, the present petition for bail.



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7.The learned counsel for the petitioner submitted that the absence of the petitioner before the trial Court is neither willful nor wanton and he was not aware about the stage of the case. In fact during investigation, after let out on bail, the petitioner shifted his residence from Tiruvallur to Tanjore, but the petitioner engaged a counsel to represent him before the trial Court, but unfortunately the counsel not followed the case, not appeared before the trial Court right from the beginning. This fact is known to the petitioner at a later point of time. When the petitioner decided to appear before the trial Court, due to COVID-19 pandemic, the petitioner could not appear. He further submits that based on the NBW issued by the trial Court, the petitioner is in judicial custody from 03.03.2025. The petitioner is ready to abide by any stringent conditions of this Court and he will not be a reason for delay in progress of trial, the petitioner has fair chance to succeed in the trial, hence, he prays for bail.

8.The learned Government Advocate (CrI. Side) appearing for the respondent Police filed counter, reiterated the case of the prosecution and



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submitted that the petitioner absconding right from the initial stage and hence, he was shown as absconding accused in the final report. Though the respondent Police took all steps to trace the petitioner, the petitioner changed his residence frequently several times, due to which, the respondent Police was unable to trace him. The petitioner absconded himself for a period of nine years and the trial for the petitioner's case was fixed from 09.06.2025 to 23.06.2025. Due to the absence of petitioner, the petitioner's case kept pending for nine years and both victims have to be dragged to the Court repeatedly. Now with great difficulty, the respondent Police executed NBW and arrested the petitioner on 03.03.2025. If the petitioner is released on bail, he will never cooperate with the trial.

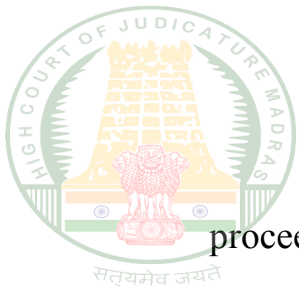
9.This Court considered the rival submissions and perused the materials available on record.

10.It is seen that during investigation, after coming out on bail, the petitioner absconded for nine years. Added to it, the respondent filed absconding charge sheet against the petitioner. The specific allegation



against the petitioner is that in the year 2014, the petitioner had left Chennai with his friend Kumar to attend his friend's wedding in Virudhachalam. At that time, they came in contact with both victims who were standing near Virudhachalam railway station and took them to Velankanni. The petitioner and his friend booked a room in a lodge and had sexual intercourse with both victims on several occasions. The victims in their 164 Cr.P.C. statement have confirmed the overt act of the petitioner.

11.The contention of the petitioner that he engaged a counsel to represent the petitioner before the trial Court on his behalf, but unfortunately the counsel engaged by him not appeared before the trial Court, for the mistake of his counsel, the petitioner penalised is not proper. The petitioner had change of residence from Tiruvallur to Tanjore. Even though the petitioner engaged a counsel on his behalf, his counsel not informed the progress and stage of the case. This explanation of the petitioner is not acceptable. Non appearance of the petitioner right from the initial stage of the case, confirms his conduct and behaviour. After the arrest of the petitioner, the trial against the petitioner's case is now



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proceeding. The case is of the year 2014, at this stage, if the petitioner is granted bail, there is every likelihood of the petitioner to abscond and progress of the trial will get affect. Thus, the petitioner has shown lack of diligence in pursuing his case. The respondent with great difficulty and with sustained follow up, after nine years executed the Non-Bailable Warrant.

12.In view of the above, this Court is not inclined to grant bail to the petitioner. Accordingly, this Criminal Original Petition stands dismissed. The Trial Court to give preference and to conclude the trial as expeditiously as possible.

01.07.2025

Speaking Order/Non Speaking Order
Index : Yes/No
Neutral Citation: Yes/No
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To

- 1.The Sessions Judge, Special Court for Exclusive Trial of Cases under
POCSO Act,
Cuddalore.
- 2.The Station House Officer,
CBCID Cuddalore PS,
Cuddalore District.
- 3.The Public Prosecutor,
Madras High Court.



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M.NIRMAL KUMAR, J.

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PRE-DELIVERY ORDER IN

Crl.O.P.No.16185 of 2025

01.07.2025