



CRL OP(MD). No.4894 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 19/03/2025

PRESENT

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

CRL OP(MD). No.4894 of 2025

Eluvasagan

... Petitioner/Sole Accused

Vs

The State of Tamil Nadu,
Rep by the Inspector of Police,
All Women Police Station,
Uthamapalayam,
Theni.

Cr. No.33 of 2024.

... Respondent/Complainant

For Petitioner : Mr.P.Gunasekaran

For Respondent : Mr.S.S.Manoj,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.482 of BNSS, 2023

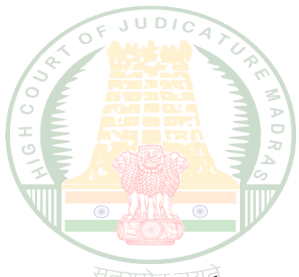
PRAYER :-

For Anticipatory Bail in Crime No.33 of 2024 on the file of the respondent-Police.

ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioner on 13.03.2025 under Section 482 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying to grant an order of pre-arrest bail.

2. The petitioner/Sole Accused apprehends arrest at the hands of the

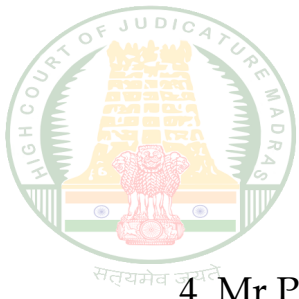


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respondent-Police for the offences punishable under Section 9 of the Prohibition of Child Marriage Act, 2006 and Sections 5(n), 5(l) and 6 of the Protection of Children from Sexual Offences Act, 2012, in Crime No.33 of 2024, on the file of the respondent-police. In this case, the petitioner was already granted bail by the learned Sessions Judge, Principal Special Court of Exclusive Trial of Cases under POCSO Act, Theni in CrI.M.P.No.35 of 2025, on 29.01.2025, with a condition that the petitioner shall stay at Bodinayakanur and appear before the SHO of All Women Police Station at Bodi daily at 10.00 a.m. and 5.00 p.m., for a period of 30 days after his release. Since the petitioner did not comply with the condition regularly, the respondent-police moved an application in CrI.M.P.No.73 of 2025 before the learned Sessions Judge, Principal Special Court of Exclusive Trial of Cases under POCSO Act, Theni to cancel the bail granted to the petitioner and the same was allowed on 20.02.2025. In this circumstances, in the apprehension of arrest at the hands of the respondent-police, the petitioner filed this petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking an order of pre-arrest bail.

3. The case of the prosecution is that the petitioner and the minor victim girl are close relatives. Due to love affair, on 07.06.2023, at about 9.00 a.m., the petitioner married the minor victim girl and had sexual intercourse with her for several times. Hence, this case.



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4. Mr.P.Gunasekaran, the learned counsel appearing for the petitioner, submits that the petitioner is an innocent person and that he has not committed any offence as alleged by the prosecution. He further submits that while the petitioner was in custody in this case, the respondent-police registered another case in Crime No.1 of 2025 against the petitioner. In this regard, the petitioner moved an application before the Principal District and Sessions Court, Theni and said application was returned by stating that the offences alleged in that case are bailable in nature. Hence, the petitioner surrendered before the learned Judicial Magistrate, Uthamapalayam and obtained bail in CrI.M.P.No.189 of 2025, dated 13.02.2025. Hence, the petitioner did not comply with the conditions imposed in the order, dated 29.01.2025. In the meantime, the respondent-police filed the petition for cancellation of bail and the same was allowed. He further submits that there is no willful default on the part of the petitioner. Hence, he prays for grant of pre-arrest bail to the petitioner.

5. Per contra, Mr.S.S.Manoj, the learned Government Advocate (CrI.Side) appearing for the respondent-Police, submits that the investigation is complete and charge sheet was filed. He further submits that since the petitioner did not comply with the conditions imposed by the learned Sessions Judge, Principal Special Court of Exclusive Trial of Cases under POCSO Act, Theni in the bail order dated



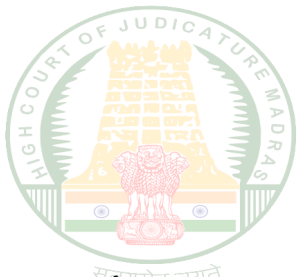
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29.01.2025, passed in CrI.M.P.No.35 of 2025, the bail already granted in favour of the petitioner was cancelled in CrI.M.P.No.73 of 2025, on 20.02.2025. He further submits that though the petitioner was granted bail in Crime No.1 of 2025 on 13.02.2025 itself, after getting bail in that case also, the petitioner did not comply with the conditions, and hence, the bail granted in this case was cancelled. Hence, he prays to dismiss this Criminal Original Petition.

6. Heard on both sides. This Court has perused the records.

7. In view of the fact that the respondent-police registered a case against the petitioner in Crime No.1 of 2025 and the petitioner surrendered before the learned Judicial Magistrate, Uthamapalayam, this Court is of the view that there is no willful default on the part of the petitioner in not complying with the conditions imposed in this case. In view of the facts and circumstances, the apprehension of the petitioner is reasonable. Hence, this Court is inclined to grant an order of pre-arrest bail to the petitioner subject to the following conditions:

(i) The petitioner shall be released on bail in the event of his arrest or in the event of his surrender before the learned Sessions Judge, Principal Special Court of Exclusive Trial of Cases under POCSO Act, Theni, within a period of 15 days from the date on which the order copy is made ready, on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) along with two sureties each for a like sum



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of Rs.10,000/- (Rupees Ten Thousand only) to the satisfaction of the learned Sessions Judge, Principal Special Court of Exclusive Trial of Cases under POCSO Act, Theni;

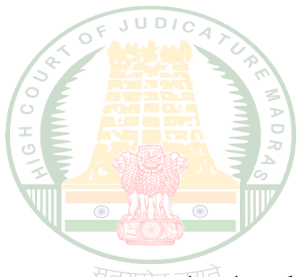
(ii) The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Sessions Judge, Principal Special Court of Exclusive Trial of Cases under POCSO Act, Theni shall obtain a copy of any one of identity proofs to ensure their identity;

(iii) The petitioner shall furnish his residential address and mobile number to the learned Sessions Judge, Principal Special Court of Exclusive Trial of Cases under POCSO Act, Theni;

(iv) The petitioner shall appear and sign before the learned Sessions Judge, Principal Special Court of Exclusive Trial of Cases under POCSO Act, Theni, on all working days at 10.30 a.m., until further orders;

(v) The petitioner shall make himself available for interrogation by a police officer as and when required;

(vi) The petitioner shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;



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(vii) The petitioner shall not leave India without previous permission of the Court;

(viii) The petitioner shall not enter into the house and workplace of the defacto complainant;

(ix) The petitioner shall not, directly or indirectly, cause any threat to the defacto-complainant and witnesses and shall not tamper the evidence; and

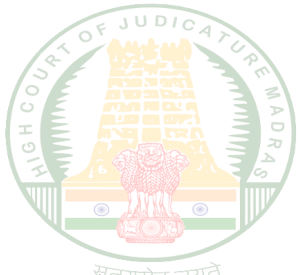
(x) On breach of any of the aforementioned conditions, the learned Sessions Judge, Principal Special Court of Exclusive Trial of Cases under POCSO Act, Theni, or Trial Court as the case may be, is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned conditions are imposed by him as laid down by the Hon-ble Supreme Court in P.K. Shaji vs. State of Kerala [(2005) 13 SCC 283].

8. Accordingly, this Criminal Original Petition is allowed subject to the conditions stated supra.

sd/-
19.03.2025

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/04/2025
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO

1. The Sessions Judge,
Principal Special Court of Exclusive Trial of
Cases under POCSO Act,
Theni.
2. Do-Through The Chief Judicial Magistrate,
Theni District.
3. The Inspector of Police,
All Women Police Station,
Uthamapalayam,
Theni.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER

IN

CRL OP(MD) No.4894 of 2025

Date : 19/03/2025

SL(03.04.2025)/ 7P/ 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.