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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 26/03/2025

PRESENT

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

CRL OP (MD) No.5187 of 2025

Manoj

... Petitioner/ Sole accused

Vs

The State of Tamil Nadu,
Rep. by the Inspector of Police,
Railway Police Station,
Nagercoil, Kanniyakumari District.
Crime No.94 of 2019

... Respondent/Complainant

For Petitioner : Ms.S.Bharathi
Advocate

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl.Side)

PETITION FOR BAIL Under Sec.483 of BNSS, 2023.

PRAYER :-

To release the petitioner on bail in Spl.S.C.No.74 of 2019 on the file of the learned Sessions Judge, Special court for exclusive trial of cases under POCSO Act, Nagercoil, in connection with Crime No.94 of 2019 on the file of the respondent-

<https://www.mhc.tn.gov.in/judis>



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ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioner on 18.03.2025 under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying to grant bail.

2. The petitioner/sole accused was arrested on the basis of Non-Bailable Warrant issued against him and remanded to judicial custody on 15.09.2024 for the alleged offences punishable under Sections 7 and 8 of the Protection of Children from Sexual Offences (POCSO) Act, 2012, and Section 506(i) of the Indian Penal Code, 1860, altered into Sections 9(m) and 10 of the Protection of Children from Sexual Offences (POCSO) Act, 2012. The petitioner is facing trial in Spl.S.C.No.74 of 2019 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases, Kanniyakumari, in connection with Crime No.94 of 2019 on the file of the respondent-police. Since the petitioner has not appeared before the Trial Court on 19.03.2024, the petitioner filed a petition for recalling NBW, which was dismissed. Subsequently, Non-Bailable Warrant was issued against the petitioner by the Trial Court.

3. The case of the prosecution is that on 31.08.2019, the defacto complainant and his family members were travelling from Chennai to Nagercoil in the Kanniyakumari



Express Train. On that day, at about 03.00 a.m., the defacto complainant's minor daughter woke up from her berth and informed the defacto complainant that the petitioner had sexually assaulted her and also threatened her. Hence, the case.

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4. Ms.S.Bharathy, learned counsel appearing for the petitioner, submits that the petitioner is an innocent person, that he has not committed any offence as alleged by the prosecution, and that he has been falsely implicated in this case. She further submits that this is the second bail petition and that the earlier petition filed by the petitioner was dismissed by this Court vide order dated 03.02.2025 in CrI.O.P. (MD) No.1793 of 2025. She further submits that though the trial has commenced and is posted for the examination of the Investigating Officer, for the past three hearings, the Investigating Officer has not appeared before the Trial Court, and the case is now posted on 01.04.2025, and therefore, there is no chance of completion of the trial within the scheduled time. She therefore prays to grant bail to the petitioner.

5. Per contra, Mr.K.Sanjai Gandhi, learned Government Advocate (CrI. Side) appearing for the respondent-police, submits that the case is posted for the examination of the Investigating Officer and that within a short span of time, the trial will be concluded. Therefore, at this stage, if the petitioner is enlarged on bail, he may abscond, cause a threat to the defacto complainant and the other witnesses, and delay the trial. Accordingly, he prays to dismiss this Criminal Original Petition.

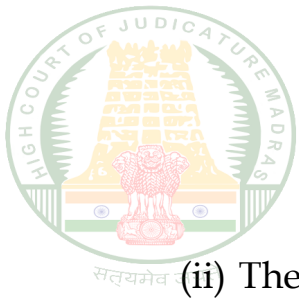


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6. Heard on both sides. This Court has perused the records.

7. The petitioner was arrested and remanded to judicial custody on 15.09.2024, and he has been in judicial custody for more than six months. In view of the fact that the case is posted on 01.04.2025 for the examination of the Investigating Officer on the side of the prosecution, there is less possibility of completing the trial in the near future. Further, it is to be noted that since the petitioner had failed to appear before the Trial Court, a Non-Bailable Warrant was issued against him, and the same was executed on 15.09.2024. This Court is of the opinion that one more opportunity may be granted to the petitioner to appear before the Trial Court and cooperate with the trial. Additionally, the petitioner has a permanent residence, and therefore, there is less possibility of absconding. Considering the same and also taking into account the period of incarceration, this Court is inclined to grant bail to the petitioner, however, subject to certain conditions. Accordingly, bail is granted to the petitioner subject to the following conditions:

(i) The petitioner shall execute a bond for Rs.25,000/- (Rupees Twenty Five Thousand only) along with two sureties [one should be blood surety] each for a like sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Nagercoil;



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(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, Special Court for Exclusive Trial of Cases under POCSO Act, Nagercoil shall obtain a copy of any one of identity proofs to ensure their identity;

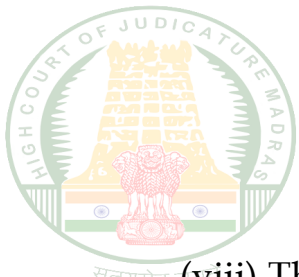
(iii) The petitioner shall furnish his residential address and mobile number to the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Nagercoil;

(iv) The petitioner shall appear before the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Nagercoil on all working days at 10.30 am and 5.00 pm., until further orders;

(v) The petitioner shall attend in accordance with the conditions of the bond to be executed under Chapter XXXV of BNS, 2023;

(vi) The petitioner shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected;

(vii) 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 or tamper with the evidence;



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(viii) The petitioner shall not enter into the residence of the defacto complainant or workplace and victim girl's school.

(ix) The petitioner shall not try to contact the defacto complainant or the victim girl either directly or through any electronic mode; and

(x) On breach of any of the aforementioned conditions, the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Nagercoil 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/-
26/03/2025

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26/03/2025
Sub-Assistant Registrar (Vigilance)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TRP
TO

1 THE SESSIONS JUDGE, SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT, NAGERCOIL.

2 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.



3 THE INSPECTOR OF POLICE,
RAILWAY POLICE STATION, NAGERCOIL,
KANNIYAKUMARI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.S.BHARATHI, Advocate (SR-3436[I] dated 26/03/2025)

ORDER
IN
CRL OP(MD) No.5187 of 2025
Date :26/03/2025

NBF/SAR/ (26/03/2025) 7P/6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023