



CRL OP (MD) No.7659 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 25/04/2025

PRESENT

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

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Padmanathan

... Petitioner/Sole Accused

Vs.

The State of Tamil Nadu
Rep. by the Inspector of Police,
All Women Police Station,
Nilakottai,
Dindigul District.
(Crime No.7 of 2022)

... Respondent/Complainant

For Petitioner : Mr.S.Muniyandi,
Advocate.

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

PETITION FOR BAIL Under Sec.483 of BNSS



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PRAYER :-

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To release the Petitioner/Sole Accused on bail in the case in Spl.S.C.No.150 of 2023 on the file of the learned Judge, Special Court for Exclusive Trial of POCSO Act cases, Dindigul in connection with Crime No.7 of 2022.

ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioner on 23.04.2025 under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying to grant an order of bail.

2. The petitioner/Sole Accused was arrested and remanded to judicial custody on 07.11.2024 on the basis of Non-Bailable Warrant issued against him. The petitioner is facing trial in Spl.S.C.No.150 of 2023 on the file of the learned Judge, Special Court for Exclusive Trial of POCSO Act cases, Dindigul, for the offences punishable under Section 450 of Indian Penal Code, 1860 and Sections 5(l), 5(j)(ii) r/w 6 of Protection of Child from Sexual Offences Act, 2012, in connection with Crime No.7 of 2022 on the file of the respondent-police.

3. The petitioner is the sole accused in this case. The trial has commenced, and P.W.1 and P.W.2 have been examined. The case was thereafter posted for further examination of prosecution witnesses. Subsequently, since the petitioner's counsel could not cross-examine the witnesses, the petitioner filed a petition under Section 311 Cr.P.C. to recall P.W.1 and P.W.2, and the same was allowed on 23.05.2024 with



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and direction to pay a sum of Rs.2,000/- and Rs.3,000/- to P.W.1 and P.W.2 respectively. As the petitioner failed to deposit the said amounts, a Non-Bailable Warrant was issued against him on 17.10.2024, and the same was executed on 17.11.2024.

4. The case of the prosecution is that the defacto complainant, who is the mother of the victim girl XXXX, lodged a complaint alleging that the petitioner/accused committed aggravated penetrative sexual assault against her daughter repeatedly while she was alone in her house. Hence, the case.

5. Mr.S.Muniyandi, learned counsel appearing for the petitioner, submits that Non-Bailable Warrant was issued against the petitioner only due to non-payment of the aforesaid amount. He further submits that the petitioner has been in judicial custody since 07.11.2024, i.e., for more than 150 days, and is ready to abide by any conditions that may be imposed by this Court. He also submits that if bail is granted to the petitioner, he will not abscond and will co-operate with the trial proceedings. Accordingly, he prays to grant bail to this petitioner.

6. Per contra, Mr.K.Sanjai Gandhi, learned Government Advocate (Criminal Side) appearing for the respondent-police, submits that Non-Bailable Warrant was issued against the petitioner on 17.10.2024 and the same was executed on 07.11.2024 ie., after a period of one month, by arresting the petitioner. He further submits that



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the case is posted for the examination of the investigating officer, and at this stage, if bail is granted to the petitioner, he may abscond and thereby cause a delay in the trial proceedings. Accordingly, he prays to dismiss this Criminal Original Petition.

7. Heard both sides and perused the records.

8. The petitioner was arrested on 17.11.2024 based only on the Non-Bailable Warrant issued against him on 17.10.2024. The contention of the petitioner is that the Non-Bailable Warrant was issued due to his non-payment of the amount ordered by the Trial Court in the order for reopening the examination of P.W.1 and P.W.2, and that, due to his financial crisis, he could not mobilize the required funds. In view of the above, this Court is of the opinion that bail may be granted to the petitioner. Further, the petitioner has a permanent residence, and therefore, there is less possibility of absconding. Considering the above cumulative circumstances, the period of incarceration, and in the interest of justice, and with a view to ensuring a fair trial, this Court is inclined to grant bail to the petitioner, however, subject to certain conditions:

(i) The petitioner shall execute a bond for Rs.10,000/- (Rupees Ten Thousand only) along with two sureties each for a like sum of Rs.10,000/- (Rupees Ten Thousand only) to the satisfaction of the learned Judge, Special Court for Exclusive Trial of POCSO Act cases, Dindigul;



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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 Judge, Special Court for Exclusive Trial of POCSO Act cases, Dindigul, 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 Judge, Special Court for Exclusive Trial of POCSO Act cases, Dindigul;

(iv) The petitioner shall appear and sign before the learned Judge, Special Court for Exclusive Trial of POCSO Act cases, Dindigul, on all working days at 10.30 a.m., until further orders and on all hearing dates when the Court requires his appearance;

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



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(vi) The petitioner shall not commit an offence similar to the offence of 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;

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

(ix) On breach of any of the aforementioned conditions, the learned Judge, Special Court for Exclusive Trial of POCSO Act cases, Dindigul, 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].



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

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25/04/2025
Sub-Assistant Registrar (Judicial)
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSG

To

- 1.The Judge,
Special Court for Exclusive Trial of
POCSO Act cases,
Dindigul.
- 2.The officer-in-charge,
District Prison, Dindigul.
- 3.The Inspector of Police,
All Women Police Station,
Nilakottai,
Dindigul District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.MUNIYANDI, Advocate (SR-4849[I] dated 25/04/2025)



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ORDER
IN
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Date :25/04/2025

MK/SAR /25.04.2025 8P/6C

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