

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:31.10.2018

CORAM:
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
Crl.A.No.649 of 2018

Rajamurugan ... Appellant/Petitioner/Accused

.. Vs ..

State rep by
Inspector of Police,
All Women Police Station,
Palladam,
Tiruppur District
(Crime No.3 of 2018)

... Respondent/Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 14 A Provision of SC/ST (POA) Act., to set aside the order passed in bail petition in C.M.P.No.538 of 2018, dated 18.09.2018 on the file of Sessions Judge, (Fast Track Mahila Court) Tiruppur and enlarge the appellant on bail in Crime No.3 of 2018 on the file of the respondent police.

For Appellant : Mr.W.Camyles Gandhi

For Respondent : Mrs.V.Sarathadevi
Govt.Advocate (Crl.side)

JUDGMENT

This appeal is preferred by appellant/accused whose bail application filed under Section 14-A of S.C.S.T. Act (Prevention of Atrocities Amendment ACT 2015 read with 374(3) of Cr.P.C. has been dismissed by the trial Court.

2. The case of the prosecution is that one Saroja gave a compliant before the respondent police against the appellant stating that the defacto complainant was working as a coolie on a daily wages basis and her husband died 14 years before, that she takes care of her two daughters namely Deivanayagi and Suganya, the defacto complainant's 2nd daughter, namely, Suganya, after finishing her 10th Exam, went to her cousin sister, namely Chandra's home and at the time her sister's husband (who is the appellant), had threatened her with dire consequences and had a sexual intercourse with her and after four months, the defacto complainant came to know about the pregnancy of her daughter, pursuant to which, her daughter narrated the above said occurrence. Therefore, she gave a complaint before the respondent police.

3. The application seeking bail was filed before the Sessions Judge, Mahila Court, Tiruppur in C.M.P.No.583 of 2018 and the same was dismissed. Hence, the present appeal is filed.

4. Before the trial Court, the accused has been tried for the charges under Section 439 Cr.P.C., under Sections 5(1)(j), (ii), read with 6 of POCSO Act 2012 and Section 3(2)(v) of SC/ST (Prevention of Atrocities) Act.

5. Heard both sides.

6. The learned counsel for the petitioner/accused submitted that the accused is the husband of the elder sister of the victim girl and he is an innocent person and law abiding citizen and to wreck vengeance he has been falsely implicated in this case and seeks bail.

7. The learned Government Advocate (Crl.side) has filed objections and stated that under threatening, the accused committed sexual assault on a minor girl 15 years and there are connecting materials in the case and during the investigation, there was an abortion of the pregnancy of the victim girl, now, necessary samples of the accused and the victim has been taken and sent for scientific report, for DNA test and investigation is likely to be completed within a period of two weeks and charge sheet would be filed.

7. Considering the facts and circumstances of the case and also considering the rival submissions and considering the fact that the substantial part of the investigation is over and only the report is awaited from the Forensic Department and also further taking note of the fact that the accused is not the member of the scheduled caste, I am inclined to grant bail.

8. Accordingly, this Criminal Appeal is allowed. The impugned order passed by the Court below is set aside, with the following directions:

(i) The appellant shall be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like-sum to the satisfaction of the Mahila Court, Tiruppur

(ii) The appellant shall stay in Coimbatore and shall appear before the Judicial Magistrate No.I, Coimbatore daily at 10.30 a.m., until further orders.

(iii) The appellant shall not tamper with evidence or witness during trial.

(iv) The appellant shall not abscond during trial.

(v) On breach of any of the aforesaid conditions, the learned Trial Judge is entitled to take appropriate action against the petitioner in accordance with law, as if the conditions have been imposed and the appellant released on bail by the learned Trial Judge himself as laid down by the Hon'ble Supreme Court in P.K.Shaji Vs.State of Kerala [(2005) AIR SCW 5560].

(vi) If the appellant thereafter absconds, a fresh FIR can be registered under Section 229-A I.P.C.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Sessions Judge,
Fast Track Mahila Court, Tiruppur.

2.The Inspector of Police,
All Women Police Station,
Palladam,
Tiruppur District

3.The Government Advocate (Crl.Side),
High Court, Madras

4.The Judge, Mahila Court, Tiruppur

5.Judicial Magistrate No1.
Coimbatore.

+1cc to Mr.W.Camyles Gandhi, Advocate, S.R.No.74683

VBA(CO)

rrs 31/10/2018

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