



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.04.2018

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CORAM
THE HONOURABLE MRS. JUSTICE R.THARANI

Crl.A.(MD)No.155 of 2018

Viswamparam

...Appellant/Petitioner/
Accused No.1

Vs.

State rep. by its
The Inspector of Police,
Kuzhithurai All Women Police Station,
Nagercoil,
Kanyakumari District.
Crime No.7/2018

... Respondent/Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 14A(2) of the Scheduled castes and the scheduled tribes (Prevention of Atrocities) Amendment Act, 2015, to set aside the order passed by the learned Sessions Fast Track Mahila Court, Kanyakumari at Nagercoil in Crl.M.P.No.242 of 2018, dated 12.03.2018 and enlarge the petitioner on bail, pending investigation in Crime No.7 of 2018 on the file of the respondent.

For Appellant
For Respondent

: Mr.R.J.Karthick
: Mr.K.Suyambulinga Bharathi
Additional Public Prosecutor

JUDGMENT

This appeal has been filed challenging the order passed by the learned Sessions Fast Track, Mahila Court, Kanyakumari District at Nagercoil in Crl.M.P.No.242 of 2018 dated 12.03.2018 refusing to enlarge the petitioner on bail in Crime No.7 of 2018. The respondent registered a case against the petitioner for the offence under Sections 7, 8, 9(i), 9(l), 9(m), 9(p), 10, 11(1), 12, 17 of POSCO Act, 2012 and Section 323 IPC and Section 3(1), (w)(i) of SC/ST (POA) Act, 2015.

2.The case of the prosecution is that on 04.12.2018 at about 4.00 p.m., the petitioner/A1 had assaulted the minor boy who is studying in 7th standard with ladle and caused injury on his forefeet. The petitioner is working as a cook in Kulithalai Government Boys Hostel and after his work from 01.01.2018 onwards, the petitioner used to go to the boys room after 8.30 p.m., and used to misbehave with the 7th standard boy Aravinth.



3. On the side of the petitioner, it is stated that two cases are instituted on the basis of the same occurrence against this accused. One of such complaint is given by the Additional Hostel Warden, who is in-charge of the Kulithalai Government Hostel for the students and based on that a case has been registered in Crime No.4 of 2018 and one more case is registered against the petitioner in Crime No.7 of 2018 based on the complaint given by the Social Welfare officer.

4. On the side of the petitioner, it is stated that the boy tried to run away from the hostel and sustained injuries on his head and he lodged a false complaint. It is further stated that the lower Court dismissed the bail petition on two ground that proposals have been sent for taking action under Goondas Act and the presence of the accused is necessary for potentiality test.

5. On the side of the respondent, it is stated that the petitioner and another person who are working in the boys hostel used to give sexual harassment to the 7th standard boys. There is a complaint stating that one of the boys was injured. This fact came to light on 06.02.2018, the Child Protection Officer and the Social Welfare Officer for SC and ST people conducted an enquiry in the school premises and found that some of the children were tortured by the petitioner and lodged a complaint against the petitioners for giving sexual harassment to the boys. Some of the boys belong to SC and ST Community and hence the offence under Sections SC and ST Act is also made out against the petitioner. The victim boy gave 164 statement before the learned Judicial Magistrate on 27.02.2018. Moreover, the order for detaining the petitioner under the Goondas Act has been passed by the District Collector, Nagercoil on 09.04.2018.

6. On the side of the petitioner, it is further stated that the co-accused in this case was already released on Anticipatory Bail by the lower Court.

7. On the side of the respondent, it is stated that Accused No.2 got anticipatory bail when the offence was not altered.

8. Records perused.

9. The offences alleged against the petitioner/Accused No.1 is serious in nature and the victims are minor boys and some of them belong to SC and ST Community. Even at the stage of bail petition before the lower Court, the respondent has stated that there is a proposal for taking action against the petitioner under the Goondas Act and now, the petitioner has already been detained under the



10. Under these circumstances, this Court is not inclined to release the petitioner on bail. Hence, this appeal is dismissed.
Sd/

Assistant Registrar (AS)

/True copy/

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Sub Assistant Registrar

To

1. The Sessions Judge,
Fast Track, Mahila Court,
Kanyakumari District at Nagercoil
2. The Inspector of Police,
Kuzhithurai All Women Police Station,
Nagercoil,
Kanyakumari District.
3. The Judicial Magistrate, Kuzhithurai.
4. The Superintendent,
Sub Jail, Nagercoil,
Kanniyakumari District.
5. The District Collector,
Kanniyakumari District at Nagercoil.
6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. **(2 copies)**

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