

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.A.No.299 of 2020

Venkatesan

.. Appellant/Accused

Vs.

1.The Deputy Superintendent
of Police,
Tiruttani,
Tiruvallur District.

2.The Inspector of Police,
All Women Police Station,
Thiruttani,
Tiruvallur District.
(Crime No.5 of 2020)

.. Respondents/Complainants

3.V.Pavithra

.. Respondent/defacto
Complainant

Criminal Appeal filed under Section 14A (ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity "the SC/ST Act") to set aside the order dated 10.07.2020 passed in Crl.M.P.No.656 of 2020 on the file of the Sessions Court (Fast Track Mahila Court), Tiruvallur and to enlarge the appellant on bail in Crime.No.5 of 2020 on the file of the second respondent.

For Appellant : Mr.M.Sathish Kumar

For RR1 & 2 : Mr.K.Madhan

Govt. Advocate (Crl. Side)

For R3 : No appearance

JUDGMENT

This case is taken up through video conferencing.

2. This appeal has been preferred seeking to set aside the order dated 10.07.2020 passed in Crl.M.P.No.656 of 2020 on the file of the Sessions Court (Fast Track Mahila Court), Tiruvallur and to enlarge the appellant on bail in Crime.No.5 of 2020 on the file of the second respondent.

3. It is the case of the prosecution that the appellant, who is aged about twenty four years, had seduced the victim girl "X" (name not divulged for the sake of anonymity), who is a Dalith and

aged about sixteen years and that she has conceived.

4. On these allegations, the police registered a case in Crime No.5 of 2020 for the offences under Section 376 IPC, Sections 5(1)(ii) and 6 of the Protection of Children from Sexual Offences Act, 2012 (for brevity "the POCSO Act") and Section 3(2)(iv) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity "the SC/ST Act") and arrested the appellant on 03.07.2020.

5. The bail application in Crl.M.P.No.656 of 2020 filed by the appellant has been dismissed by the trial Court on 10.07.2020, aggrieved by which, the appellant has filed the present appeal seeking bail.

6. Heard Mr.M.Sathish Kumar, learned counsel for the appellant and Mr.K.Madhan, learned Government Advocate (Crl.Side) for the first and second respondents/State. Though private notice has been served on the third respondent/de facto complainant, she has not entered appearance.

7. The learned counsel for the appellant submitted that the appellant is ready and willing to marry "X" since he was in love with her for three years.

8. Of course, this Court cannot direct the appellant to marry "X" as she is still a minor. However, taking into consideration the nature of allegations in the FIR and the fact that the appellant is in incarceration from 03.07.2020, this Court is of the view that interests of justice will be served if bail is granted to the appellant.

9. Accordingly, the present appeal is allowed by setting aside the order dated 10.07.2020 passed in Crl.M.P.No.656 of 2020 on the file of the Sessions Court (Fast Track Mahila Court), Tiruvallur and the appellant is ordered to be released on bail on the following conditions:

- (i) the appellant shall be released on bail on he executing bond for a sum of Rs.10,000/- with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Sessions Court, (Fast Track Mahila Court), Tiruvallur;
- (ii) the appellant shall file an affidavit before the Sessions Court, (Fast Track Mahila Court), Tiruvallur, to the effect that he is ready and willing to marry "X";

- (iii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Sessions Judge, (Fast Track Mahila Court), Tiruvallur, may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;
- (iv) the appellant shall report before the respondent/police on Monday and Friday at 10.30 a.m. until further orders;
- (v) on breach of any of the aforesaid conditions, the learned Sessions Judge is entitled to take appropriate action against the appellant in accordance with law as if the conditions have been imposed and the appellant released on bail by the learned Sessions Judge himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**; and
- (vi) if the appellant thereafter absconds, a fresh FIR can be registered under Section 229A IPC;

ORDER

This petition having been posted this day for being mentioned pursuant to the order of this Court date 12/08/2020 and made herein MR.M.SATHISH KUMAR for the petitioner and of Mr. K.MADHAN FOR RR1 & R2 Government Advocate (Crl.Side) and for R3 [No appearance] on behalf of the respondents, the Court made the following order.

This Court, by order dated 12.08.2020, allowed this appeal and granted bail to the appellant on certain conditions, one of which is that he should execute a bond for Rs.10,000/- with two sureties to the satisfaction of the Sessions Court (Fast Track Mahila Court), Thiruvallur.

2 The learned counsel for the appellant made a special mentioning to this Court that physical appearance is not being permitted in the Sessions Court (Fast Track Mahila Court), Thiruvallur and therefore, prayed for modification of the aforesaid condition accordingly.

3 Hence, today, this matter is listed under the caption "for being mentioned".

4 Today, when the matter was taken up for hearing, the learned counsel for the appellant reiterated the aforesaid submission made at the time of mentioning.

5 Acceding to the request of the learned counsel for the appellant, paragraph no.9 of the order dated 12.08.2020 stands substituted as under:

"9. Accordingly, the present appeal is allowed by setting aside the order dated 10.07.2020 passed in CrI.M.P.No.656 of 2020 on the file of the Sessions Court (Fast Track Mahila Court), Tiruvallur and the appellant is ordered to be released on bail on the following conditions:

(i) the appellant shall be released on bail on he executing a bond for a sum of Rs.10,000/- without sureties to the satisfaction of the Superintendent of Prison, Puzhal, Chennai or wherever he is presently lodged. After his release, he shall appear before the Sessions Court (Fast Track Mahila Court), Tiruvallur, within a period of two weeks after resumption of physical hearing and execute a fresh bond for Rs.10,000/- with two sureties, one of whom should be a blood relative, each for a like sum, to the satisfaction of the Sessions Court (Fast Track Mahila Court), Tiruvallur;

(ii) the appellant shall file an affidavit before the Sessions Court, (Fast Track Mahila Court), Tiruvallur, to the effect that he is ready and willing to marry "X";

(iii) the appellant and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Sessions Judge, (Fast Track Mahila Court), Tiruvallur, may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(iv) Immediately after his release from the prison, the appellant shall report before the respondent/police on Monday and Friday at 10.30 a.m. until further orders;

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

(vi) If the appellant does not appear before the Sessions Court (Fast Track Mahila Court), Tiruvallur, as directed in clause (i) above, the said Judge may issue a warrant for the arrest of the appellant and remand him in custody.

(vii) if the appellant thereafter absconds, a fresh FIR can be registered under Section 229A IPC;"

The Registry is directed to issue the amended order copy immediately.

-sd/-
18/08/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

**[*]BEING MENTIONED AS PER THE ORDER OF THIS COURT DATED 18/08/2020
MADE IN CRL.A.NO.299/2020.**

TO

1 THE SESSIONS JUDGE
FAST TRACK MAHILA COURT,
TIRUVALLUR, TIRUVALLUR DISTRICT

2 THE SUPERINTENDENT,
OF PRISON, SUB-JAIL, TIRUTTANI

3 THE SUPERINTENDENT
CENTRAL PRISON, PUZHAL, CHENNAI

4 THE DEPUTY SUPERINTENDENT OF POLICE,
TIRUTTANI, THIRUVALLUR DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, THIRUTTANI,
THIRUVALLUR DISTRICT,

C.C. to M/S. M.SATHISH KUMAR Advocate on payment of necessary charges

Order
in

CRL A.299/2020

Date :18/08/2020

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 18/08/2020