



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 12.08.2020

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WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. A. (MD) No. 227 of 2020

Arumugam .. Appellant/Sole Accused
Vs.

- 1.State,
Rep. By the Deputy Superintendent of Police,
Aruppukottai Taluk,
Virudhunagar District.
- 2.The Inspector of Police,
A.Mukkulam Police Station,
Aruppukottai Taluk,
Virudhunagar District.
(Crime No.67 of 2020). ... Respondents/Complainant
- 3.Selvi Vennila (Minor)
Through her mother Lakshmi
(Natural Guardian) .. 3rd Respondents/Defacto Complainant

Prayer : This criminal appeal is filed under Section 14A(2) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amended Act, 2016, to set aside the order dated 26.06.2020 made in Crl.M.P.No.319 of 2020 on the file of the Special Court for exclusively Trial of Cases under POSCO Act, 2012, Virudhunagar District at Srivilliputtur and enlarge the appellant on bail.

For Appellant	: Mr.K.K.Samy
For Respondents	: Mr.K.Dinesh Babu, Additional Public Prosecutor

ORDER

This appeal has been filed to set aside the order in Crl.M.P.N.319 of 2020 dated 26.06.2020, on the file of the Special Court for exclusively Trial of Cases under the POSCO Act, 2012, Virudhunagar District at Srivilliputtur and to enlarge the appellant on bail.



2.The case against the appellant is that the victim girl gave birth to a female child and then the defacto complainant lodged a complaint against the accused. The case in Crime No.67 of 2020 was registered against the appellant under Section 5(1), 5(j)(ii), 6 of POCSO Act 2012, 306, 511 of IPC r/w. 3(1)(w)(i), 3(2)(v) of SC/ST (POA) Act. The appellant was arrested and is in custody from 07.05.2020. The appellant has filed a bail petition in Crl.M.P.No.319 of 2020 before the Special Court for exclusive trial of cases under the POCSO Act, Virudhunagar. The Special Court dismissed the petition on 26.06.2020. Against which, the appellant has preferred this appeal.

3.On the side of the appellant, it is stated that there is a delay in registering the FIR. There is no mentioning relating to SC/ST Act in the FIR. Only at the time of filing the bail petition, the case under SC/ST Act was impleaded. It is stated that there is only love affair and only after delivering the baby, the case was registered, which reveals that there should be a delay of atleast nine months in filing the complaint. In the FIR, at the first portion, the age of the victim was mentioned as 16 - 20 years. In the subsequent portion, it is stated that the petitioner is 17 years old and has completed 12th standard. These contradictions are not explained and prayed the appellant to be released on bail.

4.On the side of the prosecution, it is stated that the investigation is still pending. The DNA report is yet to be received. The SC/ST Act was also invoked based on the proceedings of the Superintendent of Police, Virudhunagar in C.No.14/Proc./SJ & HR/VNR/2020. The Special Court has rightly rejected the petition. There is a chance for the petitioner to tamper the witness, if he released on bail and prayed to dismiss the petition.

5.It is seen that the appellant is in custody from 07.05.2020, I.e., for a period of more than 95 days. Admittedly chargesheet is not yet filed. Hence, the appellant is entitled for a statutory bail.

6.In such circumstances, the Criminal Appeal is allowed and the Appellant is ordered to be released on bail, subject to the following conditions:

- (i) the appellant shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judge, Special



POSCO Act, 2012, Virudhunagar District at Srivilliputtur.

(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Judge, Special Court for exclusively Trial of Cases under POSCO Act, 2012, Virudhunagar District at Srivilliputtur. may obtain a copy of any valid identity proof to ensure their identity.

(iii) On release, the appellant shall reside in Virudhunagar and shall appear before the A.Mukkulam Police Station, Virudhunagar daily at 10:30 a.m, until further orders.

(iv) the appellant shall not tamper with evidence or witness either during investigation or trial.

(v) the appellant shall cooperate with the investigation and the appellant shall appear before the respondent and the Court both during investigation and trial, as and when required.

(vi) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court 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 Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Mrn

Note : In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

<https://hcservices.courts.gov.in/hcservices>



To

- 1.The learned Judge,
Special Court for exclusively Trial of Cases under POSCO Act,
Virudhunagar District.
- 2.The Deputy Superintendent of Police,
Aruppukottai Taluk,
Virudhunagar District.
- 3.The Superintendent,
Central Prison, Madurai.
- 4.The Inspector of Police,
A.Mukkulam Police Station,
Aruppukottai Taluk,
Virudhunagar District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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TR(17.08.2020) 4P 6C