

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2021

CORAM

THE HONOURABLE MR.JUSTICE. M.NIRMAL KUMAR

CrI.A.No. 284 of 2021

S.Saravanan

... Appellant/Petitioner/Accused -1

Vs.

1. The Deputy Superintendent of Police
Sangakiri
Salem District. ... 1st Respondent

2. The Inspector of Police
Magudanchavadi Police Station
Salem District.
... 2nd Respondent/Respondent/Complainant

3. Salammal ... 3rd Respondent/Defacto Complainant

Prayer: Criminal Appeal filed under Section 14-A of SC/ST Act (Prevention of Atrocities Amendment Act 2015 against the order passed by the learned Vacation Sessions Judge, Salem, on 13.05.2021 in C.M.P.No. 1616 of 2021 dismissing the bail petition for the alleged offence originally under Section 306 of IPC read with Section 3(1)(r), (s), 3(2)(v) of SC/ST (POA) Act, 1989.

For Petitioner :Mr. W.Camyles Gandhi

For Respondents:Mr. Damodharan

Counsel for Government (CrI.Side)

ORDER

The petitioner/accused in Crime No. 152 of 2021 for offence under Sections 306, 174(3), 3(1)(r), 3(1)(s) & 3(1)(v) of SC/ST Act was arrested on 10.04.2021, seeks bail.

2. As per Section 15A(iii), notice was ordered to be taken to the second respondent/defacto complainant. Thereafter, notice was sent on 27.05.2021. It has been delivered on 28.05.2021 and proof of affidavit of service has also been filed to that effect.

3. On earlier occasion one Mr.Gopalan, Advocate representing the third respondent had appeared and furnished his mail particulars in which the learned counsel for the petitioner had mailed the petition copy and other documents and the same was received. He was also informed about the hearing of the case. Despite the same, none appeared on behalf of the third respondent.

4. On 09.04.2021 the third respondent had appeared before the second respondent and lodged a complaint stating that her daughter Sangeetha @ Gnanamalar was abused by her cast name by the petitioner and his father Sivalingam and his mother Chitra and thereafter, the de-facto complainant was informed to come and take the body of her daughter.

5. On 10.04.2019 the marriage between the petitioner and the deceased are taken place. The marriage is an arranged marriage. The petitioner belongs to Reddiyar community and the deceased belongs to SC community. Knowing the social status of both the families, the marriage was held. During the marriage, Sreedhana articles were presented and thereafter, there had a demand of additional dowry from the petitioner's family and also abused the victim by her cast name.

6. On 08.04.2021 at about 7 a.m., the deceased had called the third respondent and informed her that she has been abused by the accused by calling her cast name, since the balance in the telephone was not available, she informed that she would call her later. At about 11.30 a.m., third respondent was informed that her daughter had committed suicide. Hence, the complaint.

7. The contention of the learned counsel for the petitioner is that the petitioner has been falsely implicated in this case, knowing the social status, the marriage had been performed between the petitioner and deceased. He further submits that there was no reason for the petitioner or his family members to abuse and insult the deceased due to her caste. The deceased had committed suicide due to some family dispute and it was her own decision, for which the petitioner or the other accused cannot be held liable.

8. The learned counsel for the Government (Crl. Side) submits that on the complaint of the third respondent, a case has been registered and the investigation has been conducted. The petitioner was arrested on 10.04.2021 and the father and mother of the petitioner are absconding. Hence, he has objection for grant of bail.

9. Considering the submissions made on either side and also perusing the materials available on records, the petitioner has already been in prison for 59 days and one day more for statutory bail. In this case, admittedly investigation is pending and the charge sheet cannot be filed within the statutory period. Further, the petitioner had married the victim knowing about her social status and there was no reason to infer the caste name was an impediment their relationship. Hence, this Court is inclined to grant bail to the petitioner.

10. Accordingly, the petitioner is released on bail subject to the following conditions:-

- a) the petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent of the concerned prison, in which the Petitioner has been confined on his release;
- b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only), before the concerned Magistrate within a period of 15 days from the date of lifting of lockdown and commencement of regular functioning of Court below, failing which the bail granted by this Court shall stand dismissed automatically;
- c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;
- d) the learned Additional Public Prosecutor states that if the petitioner is released on bail, it would aggravate uneasy cause in the village and hence, this Court impose further condition that the Petitioner shall report before the second respondent police every day at 10.30 a.m., for a period of two weeks.
- e) the Petitioner shall not commit any offences of similar nature;
- f) the Petitioner shall not abscond either during investigation or trial;
- g) the Petitioner shall not tamper with evidence or witness either during investigation or trial;

h) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the Petitioner in accordance with law as if the conditions have been imposed and the Petitioner 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]; and

i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

11. With the above direction, this Criminal Appeal is allowed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vji/vsg
To

1. The Judicial Magistrate-II,
Sangakiri.
2. The Deputy Superintendent of Police
Sangakiri,
Salem District.
3. The Inspector of Police
Magudanchavadi Police Station
Salem District.
4. The Superintendent,
Central Prison, Salem.
5. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.W.Camyles Gandhi, Advocate Sr.27558

Cr1.A.No. 284 of 2021

ssd[co]
srg 10/06/2021