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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2021

CORAM:

THE HON'BLE MR. JUSTICE P.VELMURUGAN

CRIMINAL APPEAL NO.489 OF 2021

K.Manikandan ...Appellant

..vs..

1.The Deputy Superintendent of Police,
Cheyyar Police Station,
Thiruvannamalai District.

2.The State by
The Inspector of Police,
Paranmallur Police Station,
Thiruvannamalai District,
Crime No.390 of 2021.

3.Manjula ...Respondents

Criminal Appeal filed under Section 14 A (2) of SC & ST (POA) Act, 1989 as Amended by Act 1 of 2016 to set aside the order dated 17.09.2021 made in Cr.M.P.No.926 of 2021 before the Special Court for Exclusive Trial of Cases under POCSO Act, Thiruvannamalai and to enlarge the appellant on bail in Crime No.390 of 2021 on the file of the respondent by allowing this appeal.

For Appellant : Mr.M.Dinesh

For Respondents : Mr.S.Sugendran
Government Advocate (Crl.Side)
for R1 and R2

J U D G M E N T

This Criminal Appeal has been filed against the order dated 17.09.2021 passed in Cr.M.P.No.926 of 2021 by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under

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POCSO Act, Tiruvannamalai and to enlarge the appellant on bail in Crime No.390 of 2021 on the file of the respondent.

2.The respondent police registered a case in Crime No.390 of 2021 against the accused/appellant for the offence punishable under Sections 363, 366(A) and 376(1) of IPC, Section 3(a) r/w of 4 of POCSO Act, 2012 and Section 3(2)(v) of SC/ST (POA) Act Amendment Act, 2015 and he was arrested and remanded to judicial custody on 03.09.2021. Subsequently, the appellant filed a petition before the Designated Court seeking bail. After due enquiry, the learned Sessions Judge dismissed the petition on 17.09.2021. Challenging the same, the appellant is before this Court by way of Criminal Revision Case.

3.The learned counsel for the appellant would submit that the appellant does not know the age of the victim girl at the time of occurrence. Further, the victim girl was voluntarily eloped with the appellant and stayed along with him in Bangalore for two days. The appellant is in no way connected with the offences as alleged by the prosecution. He would further submit that in this case there is no sexual harassment or sexual offence. The learned Sessions Judge failed to consider the said facts simply dismissed the petition without any valid reason. Therefore, he prays to grant bail to the appellant.

4.The learned Government Advocate (Crl.Side) for the respondents 1 and 2 would submit that at the time of occurrence, the age of the victim girl was only 16 years and she belongs to a member of Scheduled Castes and Scheduled Tribes Community. He would further submit that the appellant taken the custody of the victim girl without consent of her natural/lawful guardians, took her to Bangalore, stayed there and committed penetrative sexual assault with her. Hence, the case was registered against the appellant for the charged offences. Since considering the age of the victim girl, the Designated Court dismissed the bail petition. There is no merit in the present appeal and the same is liable to be dismissed.

5. Heard the learned counsel for the appellant and the learned Government Advocate (Crl.Side) for the respondents 1 and 2 and also perused the materials available on record.

6.Admittedly, the respondent police registered the case in Crime No.390 of 2021 against the appellant for the offences

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under Sections 363, 366(A) and 376(1) of IPC, Section 3(a) r/w of 4 of POCSO Act, 2012 and Section 3(2)(v) of SC/ST (POA) Act Amendment Act, 2015 and he was arrested and remanded to judicial custody. The appellant is the sole accused. Since the victim girl was aged about 16 years, she is a child under the definition of Section 2(1) (d) of POCSO Act. Further, the victim girl is a member of Scheduled Castes and Scheduled Tribes Community, whereas, the appellant is a non-member of the Scheduled Castes and Scheduled Tribes Community.

7.Considering the age of the victim girl and also considering the serious nature of the offence, this Court does not find any perversity in the order passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Tiruvannamalai and hence, this Court is not inclined to grant bail to the appellant.

8.Accordingly, this Criminal Appeal is dismissed. However, the appellant is at liberty to take all his defence before the trial Court, after filing of charge sheet.

Sd/-
Deputy Registrar

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Sub Assistant Registrar

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To

1.The Sessions Judge,
Special Court for Exclusive Trial of Cases
under POCSO Act, Thiruvannamalai.

2.The Superintendent,
Central Prison, Vellore.

3.The Public Prosecutor,
High Court, Madras.

4.The Deputy Superintendent of Police,
Cheyyar Police Station,
Thiruvannamalai District.

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5.The Inspector of Police,
Paranmallur Police Station,
Thiruvannamalai District,

+1cc to Mr.Dinesh, Advocate SR.No.55595

Crl.A.No.489 of 2021

PCH(CO)
RVM(10/11/2021)

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