



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.12.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Appeal No.681 of 2021

Moorthy

... Appellant / Accused No.8

Versus

1. The Deputy Superintendent of Police,
Villianur Circle,
Pondicherry.
2. State Rep.by
The Station House Officer,
Mangalam Police Station,
Pondicherry,
Crime No.187 of 2020.
3. The Chairperson,
Child Welfare Committee,
Ariyankuppam,
Puducherry.

... Respondents / Complainant /
Defacto Complainant

Criminal Appeal filed under Sections 374(2) of Criminal Procedure Code, to call for the records and set aside the order in Crl.M.P.No.2573 of 2021 dated 22.11.2021 passed by the learned Special Judge, Pondicherry and to enlarge the petitioner on bail in Crime No.187 of 2020 on the file of the respondent police.

For Appellant : Mr.M.Karthik

For Respondents : Mr.V.Balamurugane
Public Prosecutor
Pondicherry

J U D G M E N T

This Criminal Appeal has been filed against the order dated 22.11.2021 in Crl.M.P.No.2573 of 2021 passed by the learned Special Judge, Pondicherry and to enlarge the appellant on bail in Crime No.187 of 2020 on the file of the respondent/police.



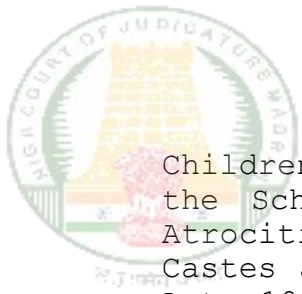
2.The appellant, who was arrayed as A8 along with other accused were arrested and remanded to judicial custody on 11.11.2020 for the offences under Sections 6 and 10 of The Protection of Children from Sexual Offences (Amendment) Act 2019; Section 17 of The Protection of Children from Sexual Offences Act 2012; Section 3(1)(w)(i) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act 2015; Section 3(2)(V) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act 1989; Section 14 (1) of Child Labour (Prohibition and Regulation) Act, 1986; Sections 372, 373, 374, 376 A B of IPC along with Sections 75, 77 and 81 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and Section 376(3), 341, 342 of IPC r/w Section 34 of IPC and to delete the Sections of Law 3(1)(i)(iv) (xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 in Crime No.187 of 2020 on the file of the 2nd respondent/police herein. Hence, the appellant and other accused/A5 filed a petition under Section 439 (1) Cr.P.C before the learned Special Judge, Puducherry seeking bail. After hearing the arguments, the lower Court, dismissed the petition. Hence, the appellant has come forward with the present Criminal Appeal seeking bail.

3.The learned counsel for the appellant submitted that the trial Court dismissed the petition only on the ground that while deposing evidence, the victim children under fear reported that if the accused are released on bail, they will do anything. He further submitted that the appellant is in custody for more than 396 days and he is no way connected with the alleged offence and if the appellant is granted bail he is ready to abide by any conditions imposed on him and thereby, he prays to grant bail to the appellant. He further submitted that he has not impleaded the victims as party in the present Appeal and hence, he seeks permission of this Court to implead the victims.

4. The learned Public Prosecutor, Pondicherry appearing for the respondents submitted that the offences committed by the appellant are serious in nature and the investigation is pending and also the charge sheet is yet to be filed. Hence, he vehemently objected to grant bail to the appellant.

5.Heard the learned counsel on either side and perused the materials available on record.

6.On a perusal of the records and the submissions made by the learned counsel on either side, this Court is of the opinion that the appellant is involved in the offence punishable under Sections 6 and 10 of The Protection of Children from Sexual Offences (Amendment) Act 2019; Section 17 of The Protection of



Children from Sexual Offences Act 2012; Section 3(1)(w)(i) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act 2015; Section 3(2)(V) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act 1989; Section 14(1) of Child Labour (Prohibition and Regulation) Act, 1986; Sections 372, 373, 374, 376 A B of IPC along with Sections 75, 77 and 81 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and Section 376(3), 341, 342 of IPC r/w Section 34 of IPC and to delete the Sections of Law 3(1)(i)(iv) (xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are serious in nature and investigation is pending and charge sheet has not yet been filed. During the investigation, if the appellant is released on bail, there is a possibility of tampering the witnesses and destroy the material evidence.

7. In the light of the above facts and considering the serious nature of the offences, this Court is not inclined to grant bail to the appellant. Accordingly, this Criminal Appeal is dismissed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Judge (Posco Act 2012)
Pondicherry.
2. The Superintendent,
Central Prison,
Kalapattu.
3. The Deputy Superintendent of Police,
Villianur Circle,
Pondicherry.
4. The Station House Officer,
Mangalam Police Station,
Pondicherry.



5. The Chairperson,
Child Welfare Committee,
Ariyankuppam,
Puducherry.

6. The Public Prosecutor,
Pondicherry.

Copy to

1. The Hon'ble committee
High Court, Madras.
2. The Section Officer,
Criminal Section,
High Court, Madras - 104.

Crl.A.No.681 of 2021

AD[co]
NSK 21/01/2022