



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 09.02.2021

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. A. (MD) No. 375 of 2020

Pandi

.. Appellant

Vs.

1. The Deputy Superintendent of Police,
Virudhunagar Division,
Virudhunagar.

2. The Inspector of Police,
Virudhunagar AWPS,
Virudhunagar.
(In Crime No. 4 of 2020)

3. Thangamudi

.. Respondents

Prayer : This Criminal Appeal is filed under Section 14(A) (2) of the The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, as amended by Act 1 of 2016, to call for the records relating to the order, dated 01.12.2020, made in Cr.M.P.No.506 of 2020, on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Virudhunagar District at Srivilliputhur and to set aside the same and enlarge the appellant on bail.

For Appellant

: Mr.P.Suresh

For Respondents 1 and 2

: Mrs.S.Bharathi
Government Advocate

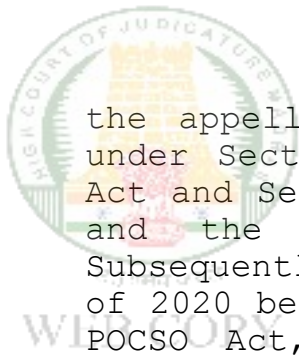
For 3rd Respondent

: No appearance

JUDGMENT

This appeal has been filed to set aside the order, dated 01.12.2020, made in Cr.M.P.No.506 of 2020, on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Virudhunagar District at Srivilliputhur and to enlarge the appellant on bail.

2. The case against the appellant is that the appellant and another person sexually assaulted a 15 years old minor female child, who is mentally challenged person and who belong to Scheduled Caste and Scheduled Tribe Community. A case was registered against



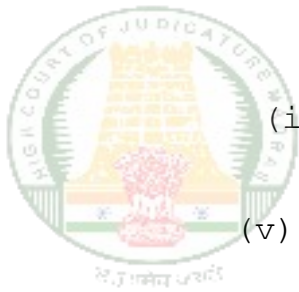
the appellant and another in Crime No.4 of 2020 for the offence under Sections 5(k), 5(l), 5(j)(ii), 5(n) r/w. Section 6 of POCSO Act and Sections 3(1) (w) (i), 3(2)(v) of SC/ST (POA) Amendment Act and the appellant was arrested by the respondent police. Subsequently, the appellant filed a bail petition in Cr.M.P.No.506 of 2020 before the Special Court for Exclusive Trial of Cases under POCSO Act, Virudhunagar District at Srivilliputhur. The learned Judge dismissed the petition. Against which, the appellant preferred the appeal before this Court.

3.On the side of the appellant, it is stated that the appellant is in custody for the past six months. A2 is the brother of the defacto complainant and he was already released on bail. The allegation against A2 and A1 are similar in nature and prayed the appellant to be released on bail.

4.On the side of the respondents 1 and 2, it is stated that the offence is serious in nature that too against a mentally challenged minor child. 164 Statement was already recorded and the appellant has also assaulted the victim girl. If the appellant is released on bail, there is possibility for the appellant to indulge in similar offence again. Already investigation was over and charge sheet was filed against the appellant and prayed the appeal to be dismissed.

5.It is seen that the appellant is in custody for the past six months. Co-accused/A2 in the case was already released on bail. Hence, this Court is inclined to grant bail to the appellant. Hence, 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 Special Court for Exclusive Trial of Cases under POCSO Act, Virudhunagar District at Srivilliputhur.
- (ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Special Court for Exclusive Trial of Cases under POCSO Act, Virudhunagar District at Srivilliputhur, may obtain a copy of any valid identity proof to ensure their identity.
- (iii) On release, the appellant shall appear before the second respondent daily at 10:30 a.m, until further orders.



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(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 second respondent and Court both during investigation and trial, as and when required.

(vi) On breach of any of the aforesaid conditions, the 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 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 (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

Ls

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.

To

1. The Judge,
Special Court for Exclusive Trial of Cases under POCSO Act,
Virudhunagar District at Srivilliputhur
2. The Deputy Superintendent of Police,
Virudhunagar Division,
Virudhunagar.
3. The Inspector of Police,
Virudhunagar AWPS,
Virudhunagar.



4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

5. The Superintendent,
Central Prison,
Madurai.

+1 CC to M/s.P.SURESH, Advocate (SR-4160[F] dated 10/02/2021)

Crl. A. (MD) N. 375 of 2020

09.02.2021

PM (CO)

NR (10/02/2021) 4P : 7C