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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CRL.A.NO.62 OF 2022

Perumal

...Appellant/Sole Accused

vs.

1. The Deputy Superintendent of Police,
Valparai,
Coimbatore District.

2. The Inspector of Police,
All Women Police Station,
Pollachi,
Coimbatore District.
(Crime No.18 of 2021).

...Respondents 1 & 2/Complainants

3. Pavithra

...3rd Respondent/Defacto Complainant

PRAYER: Criminal Appeal filed is filed under Section 14-A(2) of Schedule Caste and Schedule Tribes (Prevention of Atrocities), Act, praying to set aside the order dated 30.11.2021 made in Crl.M.P.No.944 of 2021 passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore and to allow the above Criminal Appeal by enlarging the appellant on bail.

For Appellant	:	Mr.M.N.Balakrishnan
For Respondents 1 & 2	:	Mr.Leonard Arul Joseph Selvam Government Advocate (Crl.Side)
For Respondent-3	:	No appearance

JUDGMENT

Being dissatisfied with the order dated 30.11.2021 made in Crl.M.P.No.944 of 2021, the appellant, who was the sole accused in Crime No.18 of 2021 on the file of the All Woman Police Station, Pollachi, has preferred this appeal and praying to enlarge him on bail.



2. The case of the prosecution is that on 20.08.2021, the defacto complainant's daughter, aged about 10 years and her grandmother were grazing the goats near river bed. When the grandmother went to some distance, the appellant/accused, who was catching fish in the river, called the victim girl for playing after undressing. By saying this the accused removed his Dhoti and inner wear and also asked the victim girl to remove her cloths. The victim girl, due to scare tried to run away from that place. But, the accused caught the victim girl and threatened her that if she disclosed this incident to anybody he will finish her off. Immediately, the victim girl run away from that place. Hence, the defacto complainant lodged a complaint before the respondent police. Based on her complaint, the second respondent police registered a case against the appellant for the offences punishable under Sections 9(m), 10, 11(i) r/w 12 of POCSO Act, 2012 and 506(i) of I.P.C. And Section 3(1)(w)(i), 3(i)(r), 3(2)(va) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

3. The learned counsel for the appellant would submit that the appellant is an innocent person and he has been falsely implicated in this case. He would further submit that as of now, the respondent police has completed the investigation and filed a final report before the trial Court. According to him, the appellant is in the Judicial Custody from 21.08.2021 onwards. Hence, he prays for allowing this appeal and to enlarge him on bail.

4. The learned Government Advocate (Crl. Side) appearing for the respondent/Police fairly admits that the appellant is the first offender and as of now, the investigation in this case has been completed and charge sheet has also been filed before the trial Court.

5. Though notice has been served on the third respondent and her name has also been printed in the cause-list, none appeared on behalf of the third respondent.

6. Now, on considering the submissions made by the learned counsel appearing on either side, it would appear that the respondent police had registered the case against the appellant for the offences punishable under Sections 9(m), 10, 11(i) r/w 12 of POCSO Act, 2012 and 506(i) of I.P.C. And Section 3(1)(w)(i), 3(i)(r), 3(2)(va) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015. Admittedly, the appellant is the first offender, further, as of now, investigation in this case has been completed and hence, custodial interrogation is not at all necessary. More than that, the appellant is in judicial custody from 21.08.2021 onwards.



7. Hence, taking note of all the above said aspects into consideration and having regard to the nature of offence committed by the appellant and also by considering the period of incarceration, this Court is inclined to grant bail to the appellant subject to certain conditions.

8. Accordingly, the appellant is ordered to be released on bail subject to the following conditions;

(a) the appellant shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore.

(b) 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;

(c) the appellant is directed to appear before the second respondent-Police, on every Monday at 10.00 a.m., for a period of two months and thereafter, as and when required for interrogation;

(d) the appellant shall not tamper with evidence or witness either during investigation or trial;

(e) on breach of any of the aforesaid conditions, the learned Judicial 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];

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

In the result, the order passed by the learned Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Coimbatore in Crl.M.P.No.944 of 2021 dated 30.11.2021 is set aside and the Criminal Appeal is accordingly allowed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

rsi



To

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

WEB COPY

2. The Deputy Superintendent of Police,
Valparai,
Coimbatore District.
3. The Inspector of Police,
All Women Police Station,
Pollachi,
Coimbatore District.
4. The Superintendent,
Central Prison, Coimbatore.
5. The Public Prosecutor,
High Court, Madras.
6. The Hon'ble POCSO Committee,
High Court, Madras.

Copy To

The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr.M.N.Balakrishnan, Advocate, S.R.No.17677

Crl.A.No.62 of 2022

PA(CO)
RLP(16/03/2022)