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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Cr1.A.No.57 of 2022

M.Vignesh
S/o.Muthan @ Sivakumar

... Appellant/Accused

Vs.

1.State represented by
The Deputy Superintendent of Police,
Mangalam Police Station,
Tiruvannamalai District
(crime No.510 of 2021)

2.M.Padavettan
S/o.Mottaiyan

... Respondents/Complainant and
Defacto Complainant

PRAYER: Criminal Appeal filed under Section 14A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 to set aside the order passed by the learned Special Court for Trial of Cases under SC/ST (POA) Act, Tiruvannamalai dated 11.01.2022 in Cr1.MP.No.1148 of 2021 in Cr.No.510 of 2021 and to enlarge the appellant on bail.

For Appellant : Mr.M.Krishnamoorthy

For Respondents

For R1 : Mr.Leonard Arul Joseph Selvam,
Government Advocate (crl.side)

For R2 : No appearance

JUDGMENT

Being dissatisfied with the order dated 11.01.2022, made in Cr1.MP.No.1148 of 2021 on the file of the learned Special Court for Trial of Cases under SC/ST (POA) Act, Tiruvannamalai, the petitioner therein, who is the accused in Cr.No.510 of 2021 on the file of the Deputy Superintendent of Police, Mangalam Police Station, Tiruvannamalai District, preferred this appeal praying to set aside the order dated 11.01.2022 and to enlarge him on bail.



2. The case of the prosecution is that the defacto complainant lodged a complaint alleging that the appellant viz., Vignesh under the guise of marriage, had sexual intercourse with his daughter-Ramya, due to which she got pregnant and thereafter the appellant refused to marry her and also insulted her stating their caste. While being so, on 17.12.2021 at about 10.00 a.m., the said Ramya consumed Arali seed poison and when she was brought to the hospital, she declared dead. Hence the complaint.

3. The learned counsel for the appellant submitted that the appellant is an innocent person and he has been falsely implicated in this case. During the relevant point of time, the deceased and the appellant fell in love with each other, due to which both of them involved in sexual activities. Afterwards, when at the time the deceased requested the appellant for marry her, the parents of the appellant refused to give permission to the appellant for marrying the deceased. Only in the said occasion, the deceased by consuming Arali seed committed suicide. Therefore the appellant is not played any active role in the alleged occurrence. In otherwise, the alleged rape committed by the appellant is with the consent of the victim girl and therefore Section 376 of IPC is not attracted. Hence, he prays for grant of bail to the appellant.

4. The learned Government Advocate appearing for the first respondent police reiterated the facts of the case and submitted if this appellant is released on bail, he may try to tamper the witness and hamper the investigation.

5. In respect of the victim, already notice has been sent and after receipt of the same, he has not appeared before this Court. Hence, this Court directed the Registry to print the name of the defacto complainant in the cause list and even after printing the name of the defacto complainant in the cause list, none appeared on behalf of him.

6. Submissions made by the learned counsel for the appellant and the learned Government Advocate(crl.side) appearing for the first respondent police are considered.

7. The petitioner is the first offender. The respondent police registered a case against the appellant for the offence punishable under Sections 417, 376(1), 294(b), 306 of IPC r/w 3 (2) (v), 3(1)(w)(ii) of SC/ST (POA) Act, 2015. The averments found in the first information report would disclose the fact that previous to the occurrence, both the deceased and the appellant fell in love with each other. Further they were indulged in sexual activities and as a result of which, the deceased becomes pregnant. Only thereafter, since the appellant



has refused to marry her, she committed suicide. In this occasion, it was admitted on the side of the prosecution, portion of the investigation has been completed. Further, the appellant is under incarceration from 18.12.2021 onwards.

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

9. Accordingly, the order passed by the learned Special Court for Trial of Cases under SC/ST (POA) Act, Tiruvannamalai dated 11.01.2022 in Crl.MP.No.1148 of 2021 is set aside and the appellant is enlarged on bail on the following conditions:

(a) the appellant is ordered to be released on bail on executing 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 Special Court for Trial of Cases under SC/ST (POA) Act, Tiruvannamalai.

(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 shall report before the respondent police daily at 10.00 a.m. until further orders.

(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.



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10. With the above directions, this Criminal Appeal is allowed.

Sd/-
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

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To

1.The Special Court for Trial of Cases under
SC/ST(POA) Act, Tiruvannamalai

2.The Deputy Superintendent of Police,
Mangalam Police Station,
Tiruvannamalai District

3.The Superintendent,
Central Prison,
Vellore.

4.The Public Prosecutor,
High Court of Madras

+1cc to Mr.M.Krishnamoorthy, Advocate SR.No.16973

Crl.A.No.57 of 2022

RSI (CO)
GMY (14/03/2022)