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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.A. No.153 of 2022

Ajith ... Appellant/Petitioner/Accused No.2

vs.

1.The Deputy Superintendent of Police,
Thiruvannamalai Rural Sub Division,
Thiruvannamalai District.

2.The State rep. by
The Inspector of Police,
Thanipadi Police Station,
Thanipadi.

Tiruvannamalai District. ...1 & 2 Respondents/Complainant

3.Muneeswaran ...3rd Respondent/Defacto Complainant

PRAYER: Criminal Appeal filed is filed under Section 14(A) (2) of Schedule Caste and Schedule Tribe (Prevention of Attrocities) Act, 1989 praying to set aside the order dated 10.02.2022 made in Crl.M.P.No.43 of 2022 passed by Special Court for Trial of Cases under POCSO Act, Tiruvannamalai and enlarge the appellant on bail in Crime No.2/2022 on the file of the 2nd respondent police.

For Petitioner : Mr.B.Jawahar

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 10.02.2022 made in Crl.M.P.No.43 of 2022 on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Tiruvannamalai, the appellant, who is arrayed as Accused No.2 in Crime No.2 of 2022 on the file of the Thanipadi Police Station has preferred this appeal and praying to enlarge him on bail.



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2. When the matter was taken up for admission on 21.02.2022, this Court ordered notice to the third respondent/defacto complainant. After receipt of notice none appeared on behalf of the third respondent/defacto complainant.

3. The case of the prosecution is that the first accused, namely, Raji, who was working as driver under the defacto complainant had developed love affairs with the younger daughter of the defacto complainant. It is the further case of the prosecution that the said Raji had intercourse with the victim girl. Later on 31.12.2021, the said Raji, borrowed the two wheeler, which belongs to the appellant and took the victim girl in the said vehicle and stayed in the place, which belongs to the third accused, wherein he sexually assaulted the victim girl. Further, the victim girl belongs to the SC community. Hence, a case has been registered against the appellant and other accused under Sections 4, 5(i), 6 of POCSO Act, 2012 and Section 3(2)(va) of SC/ST POA Act.

4. The learned counsel for the appellant submitted that the appellant is an innocent person and he has been falsely implicated in this case. He would further contend that in the alleged occurrence, except giving the vehicle to the first accused, the appellant herein has not committed any offence. Further, the appellant is not having any intention to aid the first accused and as of now, the appellant is in the judicial custody from 04.01.2022 onwards. Hence, he prays for bail.

5. The learned Government Advocate (Crl. Side) appearing for the respondent police raised objection stating that the investigation is pending.

6. On considering the submissions made by the learned counsel appearing on either side, it would appear that during the relevant point of time, the appellant gave his vehicle to the main accused to pick up the victim girl.

7. Whether the said act committed by the appellant is with the intention or not, is a matter for trial. In other words, the appellant is incarceration from 04.01.2022. Therefore, considering the nature of the offence committed by the appellant, this Court is inclined to grant bail to the appellant subject to following 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 Trial of Cases under POCSO 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 is directed to appear 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.

With the above directions, this Criminal Appeal is allowed.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

rsi

To

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

2.The Deputy Superintendent of Police,
Thiruvannamalai Rural Sub Division,
Thiruvannamalai District.



3.The Inspector of Police,
Thanipadi Police Station,
Thanipadi.
Tiruvannamalai District

4.The Superintendent,
Central Prison, Vellore.

5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.B.Jawahar, Advocate SR.No.13877

Cr1.A. No.153 of 2022

SSD(CO)
GMY(03/03/2022)