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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Crl.A.No.253 of 2022

1.Narasiman
2.Subramani
3.Rajendiran

... Appellants / A4 to A6

Vs.

1.State rep. by its
Inspector of Police,
Arakkonam All Women Police Station,
Ranipettai District,
(crime No.20 of 2021)

2.Priya

... Respondents

PRAYER: Criminal Appeal filed under Section 14A (2) of the Scheduled Castes and Scheduled Tribes Amendment Act, 2015 to set aside the order passed by the learned Special Judge for Exclusive Trial of Cases under POCSO Act, 2012, Vellore, Vellore District dated 04.02.2022 in Crl.MP.No.12 of 2022 and enlarge the appellant on bail concerned in Cr.No.20 of 2021 on the file of the Inspector of Police, Arakkonam Police Station, Ranipettai District.

For Appellants : Mr.G.Punniakoti

For Respondents

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

For R2 : No appearance

JUDGMENT

Being dissatisfied with the order dated 04.02.2022, made in Crl.MP.No.12 of 2022 on the file of the learned Special Judge for Exclusive Trial of Cases under POCSO Act, Vellore, Vellore District, the appellants who are arrayed as accused No.4 to 6 in the above referred crime No.20 of 2021 on the file of the Inspector of Police, Arakkonam All Women Police Station, filed this appeal praying to set aside the order dated 04.02.2022 and to enlarge them on bail.



2. The case of the prosecution is that the appellants' sons who are the main accused arrayed as A1 to A3 had committed gang rape over the victim girl. When at the time the defacto complainant approached these appellants, the appellants who are the fathers of A1 to A3, they abused the defacto complainant by mentioning her caste name. Later, upon the complaint given by the defacto complainant, the present case has been registered against the appellants and other accused. After registering the case, the appellants were arrested on 03.01.2022 and afterwards, they were in the judicial custody till date.

3. The learned counsel appearing for the appellants would contend that there was no overtact against these appellants for the alleged offence under Section 376 of IPC. Further, during the relevant point of time, the appellants have not used any abusive words and not insulted the defacto complainant. According to him, the appellants are in judicial custody from 03.01.2022 onwards. Hence, he prays for bail to the appellants.

4. The learned Government Advocate (crl.side) appearing for the first respondent police raised objection stating that investigation is pending. However he admits the witnesses who are all required for proving the alleged offence are all examined and statement also been recorded.

5. This court ordered to issue notice to the defacto complainant and after receipt of the said notice, none appeared on behalf of the defacto complainant. Therefore, this appeal has been decided upon the submissions made by the counsel appearing for the appellants and the learned Government Advocate(crl.side) appearing for the first respondent police.

6. The averments found in the first information report would disclose the fact that the appellants herein are not directly involved in the offence of rape. Only at the time the defacto complainant informed about the act committed by A1 to A3, the appellants abused her by mentioning her caste name. Except the said overtact, nothing has been stated as against these appellants. Further, the appellants are in the judicial custody from 03.01.2022 onwards. As of now, portion of investigation has been completed and other accused are also secured. There is no bad antecedents reported against these appellants. Hence, this Court is inclined to grant bail to the appellants.

7. Accordingly, the order passed by the learned Special Judge for Exclusive Trial of Cases under POCSO Act, 2012, Vellore, Vellore District dated 04.02.2022 in CrI.MP.No.12 of 2022 is set aside and the appellants are enlarged on bail on the following conditions:



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(a) the appellants are ordered to be released on bail on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) (each) with two sureties each for a like sum to the satisfaction of the learned Special Judge for Exclusive Trial of Cases under POCSO Act, 2012, Vellore, Vellore District

(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 appellants shall report before the first respondent police daily at 10.30 a.m. until further orders.

(d) the appellants 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 appellants in accordance with law as if the conditions have been imposed and the appellants 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The Special Judge for Exclusive Trial of Cases
under POCSO Act, 2012,
Vellore, Vellore District



2.The Inspector of Police,
Arakkonam All Women Police Station,
Ranipettai District,

3.The Superintendent,
Central Prison,
Vellore.

4.The Public Prosecutor,
High Court of Madras

+1 cc to Mr.G.Punniakoti, Advocate Sr.NO. 19368

Crl.A.No.253 of 2022

SPD(CO)

A.SK(23/03/2022)