



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.A.No.356 of 2022

Rajadurai,
S/o.Ponmudi

... Appellant/A-2

versus

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

2. State By,
The Inspector of Police,
Vanapuram Police Station,
Thiruvannamalai District.
(Crime No.52 of 2022)

... Respondents/Complainants

3. Ambika

... 3rd Respondent/Defacto Complainant

Prayer: Criminal Appeal filed under under Section 14(a) of SC/ST (POA), Act, praying to set aside the order passed in Crl.M.P.No.228 of 2022 dated 15.03.2022 by the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thiruvannamalai and to enlarge the appellant on bail in Crime No.52 of 2022 on the file of the Inspector of Police, Vanapuram Police Station, Thiruvannamalai District.

For Appellant : Mr.S.Silambu Selvan

For Respondent Nos.1&2 : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)

For Respondent No.3 : No Appearance

J U D G M E N T

Being dissatisfied with the order dated 15.03.2022 made in Crl.M.P.No.228 of 2022 on the file of the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thiruvannamalai, the appellant, who is the petitioner in the above referred petition, arrayed as an accused in Crime No.52 of 2022 on the file of the Inspector of Police, Vanapuram Police Station, Thiruvannamalai District, has prepared this Criminal Appeal and praying to enlarge him on bail.



2. The case of the prosecution is that on 23.02.2022, at about 6.00p.m., when at the time the victim was walking in the Balakrishnan's land, the appellant herein by using the towel pulled the victim and attempted to commit rape. During such time, one Raji came there and after seeing him, the appellant ran away from the scene of occurrence. Later, the appellant was secured on 23.02.2022 and thereafter, he was remanded to judicial custody. In this regard, the bail application filed by the appellant was dismissed by the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thiruvannamalai. Challenging the order dated 15.03.2022, the appellant is before this Court.

3. The learned counsel for the appellant would submit that the appellant is an innocent person and no way connected with the occurrence as alleged by the prosecution. He would further submit that, as of now, the investigation in this case has been completed and the material objects, which are necessary for proving the case of the prosecution also recovered by the police. The petitioner is in the judicial custody from 23.02.2022 onwards. Hence, he prayed to set aside the order dated 15.03.2022 and to enlarge the petitioner on bail.

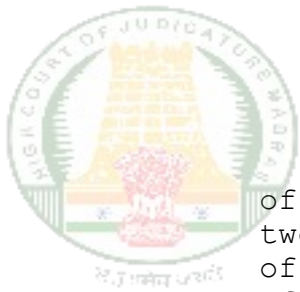
4. The learned Government Advocate (Crl. Side) appearing for the respondent/Police raised objection stating that investigation is pending. However, he admits that, as of now, 10 witnesses have been examined on the side of the prosecution and their respective statements also recorded. According to him, if the appellant is released on bail, he may try to tamper the witness and hamper the investigation.

5. Though notice was served to the de facto complainant, none appeared on behalf of her.

6. Submissions made by the learned counsel appearing on either side are considered. The respondent police registered a case as against the appellant for the offences punishable under Sections 376, 511 of IPC r/w 3(2)(v) of SC/ST (POA) Act, 2015. The appellant is in the judicial custody from 23.02.2022 and as of now, a portion of the investigation has been completed. In the said circumstances, further custody of the appellant may not be necessary for completing the investigation.

7. Hence, taking note of all the above said aspects into consideration 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;



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(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 SC/ST (POA) Act, Thiruvannamalai;

(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 appear before the respondent police daily at 10.30 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.

9. In the result, the order passed by the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thiruvannamalai, in Crl.M.P.No.228 of 2022 dated 15.03.2022 is set aside and the Criminal Appeal is accordingly allowed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

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



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

3. The Inspector of Police,
Vanapuram Police Station,
Thiruvannamalai District.

4. The Superintendent,
Central Prison, Vellore.

5. The Public Prosecutor,
High Court, Madras.

6. The Section Officer,
Criminal Section,
High Court, Madras-104.

Crl.A.No.356 of 2022

SRA (CO)
CT 20/04/2022