



WEB COPY



Crl.A.No.1066 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.A.No.1066 of 2022

1. Subash
 2. Surya Prakash
- ...Appellants

-Vs-

1. The Deputy Superintendent of Police,
SRMC Police Station,
Porur, Chennai – 600 116.
 2. The Inspector of Police,
SRMC Police Station,
Porur, Chennai – 600 116.
(Crime No.453 of 2022)
- ...Respondents

Prayer: Criminal appeal filed under Section 14-A(2) of SC/ST (Prevention of Atrocities) Act, 1989, to set aside the dismissal order passed in Crl.M.P.No.3255 of 2022 on 06.09.2022 by the learned Principal District and Sessions Judge, Tiruvallur, and enlarge the appellants on bail in Crime No.453 of 2022 on the file of the Inspector of Police, SRMC Police Station, Porur, Chennai.



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For Appellants : Mr.D.Vijayan

For Respondents : Mr.S.Sugendran
Additional Public Prosecutor

For Defacto
Complainant : Mr.A.Ramesh

JUDGMENT

This criminal appeal is filed against the order of dismissal of bail petition filed by the appellants in Crl.M.P.No.3255 of 2022 before the learned Principal District and Sessions Judge, Tiruvallur, by an order dated 06.09.2022.

2 The second respondent police registered a case against the appellants and four others in Crime No.453 of 2022 for the offence under Sections 342, 323, 365, 395, 376(D), 397, 506(i) IPC r/w Section 3(2)(v) of SC/ST (PoA) Act, 1989. The appellants were arrested on 08.08.2022 and remanded to judicial custody and they moved a petition under Section 439 of Cr.P.C. seeking bail, which was dismissed by the learned Principal District and Sessions Judge, Tiruvallur, against which present appeal is filed.



3 The learned counsel appearing for the appellants would submit that there is no such occurrence taken place as alleged by the prosecution and the defacto complainant. The defacto complainant and one Ilango, driver of the Car, in which the defacto complainant alleged to have traveled on the date of occurrence, have involved in a illicit behavior and the same was questioned by the elders of the locality and the appellants also. Hence the defacto complainant filed a false case against the appellants, who are the innocents.

3.1 The learned counsel appearing for the appellants would further submit that the said Ilango Driver of the Car has not been examined, who escaped from the place of occurrence. There is no medical examination and further there is no specific overt act as against these appellants. The age of the appellants are only 19 and 22 years and hence they may be granted the relief of bail.

4 Mr.S.Sugendran, learned Additional Public Prosecutor appearing for the respondents would submit that when the victim was traveling in her car along with her Driver on the date of occurrence, the



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accused intercepted the Car and beaten the Driver and they took the victim to the dark place and robbed the jewels and raped her.

4.1 Further the said Ilango Driver of the Car has been examined and Statement under Section 161 Cr.P.C. has also been recorded and there is specific overt act as against these appellants also. The accused were already detained under the Gundas Act. Medical reports has been received and investigation almost completed and charge sheet will also be filed soon and hence the learned Additional Public Prosecutor oppose to grant bail to the appellants.

5 Notice served on the defacto complainant as per the SC/ST Act and she also appeared through counsel. The learned counsel for the defacto complainant would submit that the Ilango was not absconded and the accused only kidnapped him. The appellants committed gang rape and also given life threat to the defacto complainant. The appellants are habitual offenders and if they are released on bail, there is possibility of tampering the witnesses and hence oppose to grant bail to the appellants.



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6 Heard the learned counsel for the appellants, defacto complainant and the learned Additional Public Prosecutor appearing for the respondents and perused the materials.

7 It is seen that the accused were already detained under the Goondas Act and they are habitual offenders. Further investigation has not been completed and charge sheet is not yet filed. Under these circumstances, if the appellants are released on bail, there is possibility of tampering the witness and investigation would be vitiated. Further the victim belongs to the suppressed community and there is life threat to the victim. Therefore this Court is not inclined to grant bail to the appellants.

8 Accordingly, this criminal appeal stands dismissed.

20.10.2022

Index : Yes/No
Speaking Order/Non Speaking Order
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P.VELMURUGAN, J.,

cgi

To

1. The Principal District and Sessions Judge, Tiruvallur.
2. The Deputy Superintendent of Police, SRMC Police Station, Porur, Chennai – 600 116.
3. The Inspector of Police, SRMC Police Station, Porur, Chennai – 600 116.
4. The Public Prosecutor, High Court of Madras.

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