



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2022

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.A.No.662 of 2021

Manikandan

... Appellant/Accused

Vs.

1. The Commissioner of Police,
O/o. The Commissioner of Police,
Vepery, Chennai.
2. The Inspector of Police,
W-12, All Women Police Station,
Harbour Range,
Chennai.

3. Mrs.Maheswari

... Respondents/Complainant

PRAYER: The Criminal Appeal is filed under Section 14 (A)(2) of SC/ST Act,1989 to set aside the order passed by the Special Court for exclusive for trial of cases under POCSO act at Chennai, in Crl.M.P.No.968 of 2021 dated 05.10.2021 and enlarge the appellant on bail pending trial in Spl.S.C.No.54 of 2021 in Special Court for exclusive for trial of cases under POCSO act, Chennai.

For Appellant : Mr.K.Poongundran

For R1 & R2 : Mr.S.Sugendran

Government Advocate (Crl.Side)

For R3 : Mr.S.Seenivasan

O R D E R

(This case has been heard through video conference)

This Criminal Appeal has been filed against the Judgment passed by the Special Court for exclusive for trial of cases under POCSO act at Chennai, in Crl.M.P.No.968 of 2021 in Spl.S.C.No.54 of 2021 dated 05.10.2021, dismissing the petition filed under Section 439 of Cr.P.C seeking Bail.



2. The brief facts of the prosecution is as under:-

The appellant was arrested and he is in Judicial custody from 06.10.2020 for the alleged commission of offence under Sections 6, 5(1)(m) of POCSO Act, 2012, r/w 376 AB of IPC r/w 3(2)(v) of SC/ST (POA) Act. The allegation against the appellant is that he had ravished the victim girl, aged about 11 years, who belongs to the Schedule Caste community, by committing penetrative sexual assault. The appellant had filed a petition seeking for bail in CrI.M.P.No.968 of 2021 before the Special Court for Exclusive Trial of Cases under POCSO Act, Chennai and the learned Judge by an order dated 05.10.2021, had dismissed the bail application, against which the present appeal has been filed.

3. Learned counsel for the appellant would submit that the appellant was arrested on 06.10.2020 and he is in custody for more than one year and three months. He would further submit that the complaint has been given by the mother of the victim due to previous enmity and the appellant has to come out and conduct the trial and thereby, he would seek for bail.

4. Mr.S.Sugendran, learned Government Advocate (crl.side) would submit that it is the case where, the appellant, who is the neighbor of the victim girl, had committed penetrative sexual assault on the victim. He would further submit that the final report has been filed and the cognizance of the case has been taken and it is pending for trial in Spl.SC.No.54 of 2021 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Chennai. He would further submit that the appellant is a married man, aged about 27 years and had committed penetrative sexual assault on the victim girl child, aged about 11 years, the child was immediately taken to the hospital and the Doctors have found bleeding injuries in the private parts of the victim child. There are medical evidence available with regard to the offences and the victim was treated with sutures, which shows the seriousness of the offence committed by the appellant and the appellant is the neighbor of the victim and at this stage, if the bail is granted to the appellant, there is every possibility of threatening the witnesses.

5. Learned counsel appearing for R3/ de facto complainant objects for grant of bail.

6. Heard the learned counsel for the parties and perused the materials available on record.

7. It is the case where the appellant is alleged to have ravished the 11 years old child by committing penetrative sexual assault on her. Perusal of records shows that there is medical evidence to prove that the victim has been ravished. Taking into consideration the serious nature of the offence, this Court is not inclined to allow the appeal.

