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Crl. A. No. 1163 of 20__

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2022

CORAM

THE HONOURABLE Mr.JUSTICE **V.SIVAGNANAM**

Crl.A.No.1163 of 2022

Jagadeesh @ Jagan @ Komban .. Appellant/Accused No.31

Vs.

1. The Assistant Commissioner of Police
Salem City
Salem District.

.. 1st Respondent

2. Inspector of Police
Kitchipalayam Police Station
Salem.

.. 2nd Respondent/ Complainant

3. Jhansi Rani

.. 3rd Respondent/
Defacto Complainants

Criminal Appeal filed under Section 14A (ii) of the SC/ST (Prevention of Atrocities) Act, 1989 to set aside the order of the Hon'ble Special Court for Exclusive Trial under POCSO Act, Salem in Crl. M.P. No. 2945 of 2022 dated 25.08.2022 and to enlarge the appellant on bail in Special S.C. No. 6 of 2021 pending on the file of the Hon'ble Sessions Judge Special Court for Exclusive Trial under POCSO Act, Salem.



For Appellant : Mr. A.Ilayaperumal

For Respondents : Mr. C.E.Pratap (For R1 and R2)
Govt. Advocate (Criminal Side)

R3-Notice served-No appearance

J U D G M E N T

This appeal has been preferred seeking to set aside the dismissal order of the Special Court for Exclusive Trial under POCSO Act, Salem in Crl.M.P. No. 2945 of 2022 dated 25.08.2022 and to enlarge the appellant on bail in Special S.C. No. 6 of 2021 pending on the file of the Sessions Judge Special Court for Exclusive Trial under POCSO Act, Salem.

2. The learned counsel for the petitioner submitted that the respondent police has registered a case in Crime No. 1182 of 2020 against the petitioner along with other accused persons for the offences punishable under sections 147, 148, 341, 302, 427 IPC r/w Section 3(1) of TNPPDL Act altered into Section 427, 177, 419 r/w 34, 120(b), 147, 148, 149, 341 and 320 IPC r/w Section 3(1) of TNPPDL Act and Section 3(2)(v) of SC/ST (POA) Act. Initially the petitioner was remanded to judicial custody and subsequently, he was released on bail. On 11.02.2022, the petitioner did not appear before the trial court. Hence, a non-bailable warrant has been issued against him and on



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executing the non-bailable warrant, the police arrested and remanded him on 20.06.2022 from which date he is in custody. All other accused have been released on bail and the petitioner is accused No.31 and now the case is ripe for trial, and he is ready to appear before the trial court and face the trial and therefore, seeking to set aside the impugned order and pray to grant bail.

3. When the matter is taken up, the learned Additional Public Prosecutor submitted that in this case viz., Special S.C. No. 6 of 2021, the case is posted on 22.12.2022 for furnishing copy to the accused persons. The Trial Court without considering the ill health of the petitioner for non-appearance dismissed his bail application hence it has to be set aside.

4. I have considered the submissions of Mr. A.Ilayaperumal, learned counsel for the appellant/accused and Mr. C.E.Pratap, learned Government Advocate (Criminal Side) appearing for the first and second respondents.

5. Though notice has been served on the defacto complainant there is no representation on behalf of the third respondent /defacto complainant.



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6. On a perusal of the records, the fact reveals that the petitioner is Accused No.31 in a case registered by the respondent police in Crime No. 1182 of 2020 after final report has been taken on file, it is pending on the file of the Sessions Judge Special Court for Exclusive Trial under POCSO Act, Salem. It is not disputed that the petitioner was already on bail and for his non-appearance before the trial court non-bailable warrant has been issued on 11.02.2022 and on executing non-bailable warrant the petitioner was arrested on 20.06.2022 from which date he is in custody. All the accused were released on bail and now the case is posted on 22.12.2022 for furnishing of copy to the accused persons.

7. Since the petitioner was unable to attend the case due to his health conditions, and considering the representation of the petitioner, the impugned order is hereby set aside and the petitioner is ordered to be released on bail on the following conditions:

(i) the appellant shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each, with two sureties, each for a like sum to the satisfaction of the Sessions Judge Special Court for Exclusive Trial under POCSO Act, Salem.



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(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Sessions Judge Special Court for Exclusive Trial under POCSO Act, Salem may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(iii) the petitioner shall appear before the trial Court as per the direction of the trial court.

08.12.2022

Maya

Note: Issue copy of this order on 09.12.2022.

To

1. The Assistant Commissioner of Police
Salem City
Salem District.
2. Inspector of Police
Kitchipalayam Police Station
Salem.
3. The Public Prosecutor
Madras High Court
Chennai.



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V.SIVAGNANAM, J.

Maya

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Dated : 08.12.2022