



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2022

CORAM:

THE HONOURABLE **MR. JUSTICE G.K.ILANTHIRAIYAN**  
**Crl. A(MD) No. 32 of 2022**

Malaikannan : Appellant/Petitioner/ Accused No.1

Vs.

1.The Deputy Superintendent of Police,  
Sivagangai Sub-Division,  
Sivagangai.

2.State, rep. by Inspector of Police,  
Sivagangai Taluk Police Station,  
Sivagangai.

(Cr.No.115/2014). : Respondents 1 & 2/Complainants

3.Indhirani : 3<sup>rd</sup> Respondent / De-facto Complainant

**PRAYER:** The Criminal Appeal is filed under Section 14-A(ii) of SC/ST (POA) Act, 1989, to call for the records relating to the order of dismissal of bail application, dated 19.01.2022 made in Cr.M.P.No.14 of 2022 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, 1989, Sivagangai and to set aside the same and enlarge the appellant on bail in connection with the case in Spl.S.C.No.18 of 2015 pending on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST Act, 1989, Sivagangai by allowing the Criminal Appeal.

For Appellants : Mr.P.Senguttuarasan

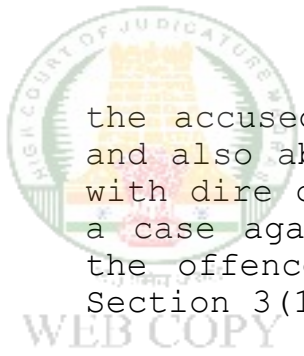
For R1 & R2 : Mr.K.Sanjai Gandhi

Additional Public Prosecutor

**JUDGMENT**

The present Criminal Appeal has been filed to set aside the impugned order, dated 19.01.2022 made in Crl.M.P.No.14 of 2022 in Spl.S.C.No.18 of 2014, on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST Act, 1989, Sivagangai.

2. The case of the prosecution is that on 26.04.2014 the accused persons threatened on Ramachandran, who is the brother-in-law of the defacto complainant and chased and beaten him. Further,



the accused persons with knife point raped the defacto complainant and also abused her by using her caste name and also threatened her with dire consequences. Therefore, the second respondent registered a case against the petitioner and others in Cr.No.115 of 2014 for the offences under Sections 294(b), 323, 376, 506(ii) of IPC and Section 3(1) (xii) of SC/ST (POA) Act.

3. After completion of the investigation, the second respondent has filed a final report and the same was taken on file in Spl.S.C.No.18 of 2015, on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, 1989, Sivagangai. While pending trial, the petitioner was absent for one hearing and Non-Bailable Warrant was issued against the petitioner on 11.11.2021. The NBW was executed by the second respondent on 08.12.2021.

4. The petitioner filed a petition for bail and the same was dismissed on the ground that co-accused are absconding and as such, the trial is pending. Though the co-accused absconded and NBW is pending against him, the petitioner is concerned, he was regularly appeared before the trial Court and he was absent for only one hearing. That apart, he is incarceration for a period of more than 60 days and therefore, prayed for enlarging the petitioner on bail.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents and perused the materials available on record.

6. Considering the above facts and circumstances of the case, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 19.01.2022 made in Crl.M.P.No.14 of 2022 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, 1989, Sivagangai.

7. Accordingly, the Criminal Appeal is allowed and the order, dated 19.01.2022 made in Crl.M.P.No.14 of 2022 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, 1989, Sivagangai, is set aside. The appellant is ordered to be released on bail on his executing 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 Exclusive Trial of Cases under SC/ST (POA) Act, 1989, Sivagangai, and on further condition that:

**[a]** the appellant shall appear before the Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, 1989, Sivagangai daily at 10.30 a.m., till the disposal of the trial;



[b] the appellant shall not tamper with evidence or witness either during investigation or trial;

[c] the appellant shall not abscond either during investigation or trial;

[d] On breach of any of the aforesaid conditions, the Trial Court is entitled to take appropriate action against the appellant in accordance with law, as if the conditions have been imposed and the appellants released on bail by the Trial Court itself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

am

**Note:**

To:-

- 1.The Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, 1989, Sivagangai
- 2.The Deputy Superintendent of Police, Sivagangai Sub-Division, Sivagangai.
- 3.The Inspector of Police, Sivagangai Taluk Police Station, Sivagangai.
- 4 The Superintendent, Central Prison, Madurai.
4. The Section Officer, Criminal Section, Madurai Bench of Madras High Court, Madurai.

**Crl. A(MD)No.32 of 2022**  
**10.02.2022**

MK/10.02.2022/3P/6C

<https://hcservices.ecourts.gov.in/hcservices/>