



CrI.A.No.145 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2023

CORAM

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

CrI.A.No.145 of 2023

1.Durga

... appellant

Vs.

1.State rep. by
The Deputy Superintendent of Police,
Ranipet Circle,
Ranipet District.

2.State rep. by
The Inspector of Police,
All Women Police Station,
Ranipet,
Ranipet District.

3.Amutha

... Respondent

PRAYER : Criminal Appeal has been filed under section 14A of the SC & ST Amendment Act 2015, to set aside the order passed by the learned Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, 2012, Vellore, Vellore District in CrI MP.No.8 of 2023 dated 20.01.2023 and enlarge the appellant on bail in connected with Crime no.07



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of 2022 on the file of the Inspector of Police, All Women Police Station, Ranipet, Ranipet District.

For Appellant : Mr.D.Dayalan

For Respondents : Mr.C.E.Pratap, GA(CrI.side)
for RR1 & 2
Mr.S.Senthilvel for R3

ORDER

This Criminal Appeal has been filed, praying to to set aside the order passed by the learned Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, 2012, Vellore, Vellore District in CrI MP.No.8 of 2023 dated 20.01.2023 and enlarge the appellant on bail in connected with Crime no.07 of 2022 on the file of the Inspector of Police, All Women Police Station, Ranipet, Ranipet District.

2.The learned counsel for the appellant has submitted that the respondent Police registered a case in crime no.7 of 2022 on 03.12.2022 for the offences alleged under Sections 450, 354 B, 354 C, 307, 376(2)(n), 506



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(ii), 109 of IPC and Sections 5(1), 5(r), 6(1), 17, 11(5), 12, 14(2) of POCSO Act, 2012 and Sections 3(1) (r), 3(1) (s), w(1) (2), r/w.3(2)(v) of SC/ST(POA) Act in pursuant to the complaint given by one Amudha. He further submitted that the appellant is the second accused and the wife of the first accused and she has not committed any offence as alleged in the complaint. Further, the allegation against the appellant is that she has locked the door from outside, when her husband namely Baskar @ Pagadu Baskar entered into the house of the defacto complainant to facilitate him to commit the offence. Apart from the said allegation, no allegation was made against her. She is in judicial custody from 04.12.2022. Therefore, the learned counsel prays for grant of bail to the appellant/A2.

3.Mr.Meganathan, the learned Government Advocate (Crl side) appearing for the respondents 1 & 2 vehemently objected for grant of bail to the appellant, stating that a case in SC No.38 of 23 has been taken on file before the learned Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, 2012, Ranipet, Vellore, Vellore District in this regard



and investigation has been completed and final report yet to be filed.

4.Heard Mr.D.Dayalan, learned counsel for the appellant and Mr.Meganathan, the learned Government Advocate (Crl side) for the respondents 1& 2 and Mr.S.Senthilvel, learned counsel for the defacto complainant/third respondent. I have considered the submissions made by the learned counsel appearing for the respective parties and perused the entire materials placed on record and the facts reveal that on 03.12.2022, at about 11pm, when the defacto complainant and her daughter were in their house, the appellant's husband namely Baskar @ Pagadu Baskar entered their house, and at the knife point made the victim girl and her mother in nude, brutally committed penetrative sexual assault on the victim girl and also committed rape on her mother/ defacto complainant and he took nude photographs and recorded the entire rape seen by taking video and threatened them by showing the same. At the time of occurrence, the appellant/A2 locked the door of the defacto complainant house from outside and after the occurrence, she paid a sum of Rs.10,000/- and threatened the



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defacto complainant and her daughter to vacate the house, otherwise, her husband will get spoil the life of the defacto complainant's daughter. Therefore, a complaint was registered against the appellant/A2.

5.Considering the nature of allegation in the complaint that the overt attitude of the appellant/A2 and also considering fact that the appellant was in judicial custody from 04.12.2022, I am inclined to grant bail to the appellant with the following conditions:

(i) The appellant is directed to be enlarged on bail on condition that 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 exclusive trial of cases under POCSO Act, 2012, Vellore, Vellore District.

(ii) The appellant and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(iii) the appellant shall not tamper with evidence or witness either



during investigation or trial;

(iv) the appellant shall report before the respondent police as and when required for interrogation.

(v) the appellant shall not abscond either during investigation or trial;

(vi) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the appellant in accordance with law as if the conditions has 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]***; and;

(vii) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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Index: Yes/No
dn

Issue on 27.02.2023.



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To

1.The learned Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, 2012, Vellore, Vellore District

2.State rep. by
The Deputy Superintendent of Police,
Ranipet Circle,
Ranipet District.

3.State rep. by
The Inspector of Police,
All Women Police Station,
Ranipet,
Ranipet District.

4.The Public Prosecutor,
High Court of Madras, Chennai-104.



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**V.SIVAGNANAM, J.,
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