



Crl.A.No.184 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2023

CORAM

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

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Samuvel Chelladurai

... Appellant

Vs.

1. The Deputy Superintendent of Police,
O/o.Deputy Superintendent of Police,
Nagapattinam District.

2. State rep by its
The Inspector of Police,
All Women Police Station, Sirkazhi,
Salem District.

3. Usha

... Respondents

PRAYER : Criminal Appeal has been filed under section 14A of SC & ST Amendment Act 2015, to set aside the order passed in Crl.M.P.No.136 of 2023 by the Special Court under POCSO Act, Nagapattinam dated 13.02.2023 in Crime No.38 of 2022 on the file of the Inspector of Police, All Women Police Station, Nagapattinam District and enlarge the petitioner on bail.

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For Appellant : Mr.P.Muthamizhselvakumar

For Respondents 1 & 2 : Mr.A.Gokulakrishnan
Additional Public Prosecutor,

For Respondent-3 : Notice Served- No Appearance

ORDER

This Criminal Appeal has been filed, praying to set aside the order passed in Crl.M.P.No.136 of 2023 by the Special Court under POCSO Act, Nagapattinam dated 13.02.2023 in Crime No.38 of 2022 on the file of the Inspector of Police, All Women Police Station, Nagapattinam District and enlarge the petitioner on bail.

2.The learned counsel for the appellant has submitted that the 2nd respondent Police registered a case against the appellant/accused on 28.11.2022 in Crime No.38 of 2022 for the offences alleged under Sections 10 r/w 9(f) of POCSO Act, 2012 r/w Sections 506(i) of I.P.C r/w 3(1)(w)(i) and 3(2)(va) of SC/ST(POA) Act in pursuant to the complaint given by one Usha. The appellant / accused is in judicial custody from 29.11.2022. He



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also submitted that the petitioner would make effective defence during the trial. Hence, the learned counsel prays for grant of bail to the appellant/Accused.

3.Mr.A.Gokulakrishnan, the learned Additional Public Prosecutor appearing for the respondents 1 & 2 vehemently objected for grant of bail to the appellant, stating that a complaint has been lodged by 3 victim girls against this appellant / accused and charges have been framed on him. The case is pending for trial.

4.Heard Mr.P.Muthamizh Selvakumar, learned counsel for the appellant and Mr.A.Gokulakrishnan, the learned Public Prosecutor for respondents 1 and 2. Though notice has been served on the 3rd respondent/defacto complainant, there is no representation on behalf of her either in person or through counsel.



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5.I have considered the submissions made by the learned counsel appearing for the respective parties and perused the entire materials placed on record.

6.On perusal of the records and F.I.R, the facts reveal that upon a complaint given by the 3rd respondent herein / defacto complainant, the 2nd respondent Police registered a case in Crime No.38 of 2022 for the offences under Sections 10 r/w 9(f) of POCSO Act, 2012 r/w Sections 506(i) of I.P.C r/w 3(1)(w)(i) and 3(2)(va) of SC/ST(POA) Act. In this case, the investigation has been completed and final report has been filed. The statement recorded under Section 164 of Cr.P.C is produced before this Court for perusal of this Court. Admittedly, charges have been framed against the appellant / accused.

7.Considering the nature of allegation against the appellant / accused and also considering the statement of the victim girls made under Section



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164 Cr.P.C, I am inclined to grant bail to the appellant with the following conditions:

(i) The appellant/accused 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 Special Court under POCSO Act, Nagapattinam.

(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 trial Court regularly as per the directions of the trial Court.**

(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



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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.

20.04.2023

Index: Yes/No

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To

1.The Special Court under POCSO Act, Nagapattinam

2.The Deputy Superintendent of Police,
O/o.Deputy Superintendent of Police,
Nagapattinam District.

3. The Inspector of Police,
All Women Police Station, Sirkazhi,
Salem District.

4. The Superintendent,
District Prison, Nagapattinam

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



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V.SIVAGNANAM, J.,

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