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Crl.A.No.503 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 28.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.A.No.503 of 2023

Dharmaraj

... Appellant

Vs.

1.The State represented by
Inspector of Police,
All Women Police Station,
Sriperumbudur,
Kancheepuram District.
Cr.No.5 of 2020

2. Kumudha
(R2- impleaded as per order
of this court dt.13.06.2023 made
in Crl.M.P.No.8006/2023 in
Crl.A.No.503/2023)

... Respondents

Prayer: Criminal Appeal filed under Section 14(A)(2) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 against the order dated 28.03.2023, in Crl.M.P.No.261 of 2023 in Spl.S.C.No.82 of 2020 by the Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Chengalpattu

For Appellant : Mr.S.N. Subramani

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For Respondents : Mr.R. Vinoth Raja
Government Advocate (Crl. Side)
for R1
Mr.T.Nixon for R2

JUDGMENT

This Criminal Appeal Petition has been filed against the order passed in Crl.M.P.No.261 of 2023 in Spl.S.C.No.82 of 2020 by the Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, dated 28.03.2023, Chengalpattu

2. The learned counsel for the petitioner submitted that the respondent police registered a case against the petitioner in Cr.No.5 of 2020 for the offence under sections 363, 366, 506(i), 376AB of IPC and Sections 4 and 6 of POCSO Act and 3(1)(w), 3(2)(v) of SC/ST (Prevention of Atrocities) Act, 2015. Pursuant to which, the petitioner was arrested. After investigation, final report has been filed and the case has been taken on file by the Sessions Judge, Special Court for Exclusive trial of Cases under POCSO Act, Chengalpattu in Spl.S.C.No.82 of 2020. Pending trial, the



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petitioner, who was under the judicial custody was enlarged on bail by the court below on condition that he should not abscond either during investigation or trial. Since the petitioner absented himself from attending the hearings before the court on account of Covid pandemic, the trial court issued a non bailable warrant against him on 06.08.2021. Thereafter, the same was executed on 04.03.2023 by arresting the petitioner. From that day onwards, the petitioner was put under judicial custody. He further submitted that in this matter, the petitioner compromised with the victim girl. Thus he seeks for grant bail by allowing this appeal.

3. The learned Govt. Advocate (crl.side) submitted that before the trial court, so far three witnesses have been examined including victim girl. The victim girl and other prosecution witnesses are not supporting the prosecution case and became a hostile witnesses. Now the case is pending trial.

4. The submissions of the learned Govt.Advocate (crl.side) is



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recorded. Considering the nature of the offences alleged and also the fact that victim girl and prosecution witnesses are not supporting the prosecution case and turned hostile and further examination of other witnesses is pending, this court inclined to grant bail to the petitioner .

5. Accordingly, the impugned order dated 28.03.2023 passed in Crl.M.P.No.261 of 2023 in Spl.S.C.No.82 of 2020 by the Court of Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, dated 28.03.2023, Chengalpattu, is set aside and Bail is granted to the petitioner. The trial court is directed to disposed of the case within a period of two months from the date of receipt of a copy of the order. The petitioner is ordered to be released on bail on executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) along with two sureties, each for a like sum to the satisfaction of Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act,, Chengalpattu, on the following conditions;

(a) the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or



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Bank pass Book to ensure their identity;

(b) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(c) the petitioner is directed to appear before the trial court regularly on all hearings, as directed by the trial court and cooperate for trial to complete the same as early as possible

(d) the petitioner shall not abscond either during investigation or trial;

(e) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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;

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



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WEB COPY 6. With the above directions, this Criminal Appeal is allowed.

28.06.2023

Index:yes/no
Internet:yes/no
msr

To

- 1.The Sessions Judge, Special Court for exclusive Trial of cases under POCSO Act, Chengalpattu.
2. The Inspector of Police,
All Women Police Station,
Sriperumbudur, Kancheepuram District.
3. The Superintendent,
Central Prison,
Puzhal, Chennai.
4. The Public Prosecutor, High Court, Madras.

Note: Issue copy on 30.06.2023

V.SIVAGNANAM, J.

msr



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