



Crl.A.No.654 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

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Sakalakaladharan

... Appellant

Vs.

1. State of Tamilnadu,
Represented by
the Inspector of Police
All Women Police station (AWPS)
Tindivanam.
Cr.No.14/2023.

2. State of Tamilnadu,
Represented by
the Deputy Superintendent of Police
Tindivanam Sub Division,
Tindivanam.

3. Mohana

... Respondents

Prayer : Criminal Appeal filed under Section 14 (A) (2) of the SC / ST Act, 1989, to set aside the order, dated 02.06.2023 made in Crl.M.P.No.1038 of 2023 passed by the Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Villupuram and allow this Criminal Appeal.



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For Appellant : Mr.S.Karthikeyan

For Respondents : Mr.R.Vinothraja,
R1 and R2 Government Advocate (Crl. side)

for R3 : Mr.M.Selvin

J U D G M E N T

The present Criminal Appeal has been filed against the orders passed by the Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Villupuram in Crl.M.P.No.1038 of 2023, dated 01.06.2023.

2. The case of the prosecution is that the victim girl aged 14 years is studying in IX std. in a Government School where the Appellant/Accused is the Head Master. On 10.04.2023, when the victim had gone to the room of the Appellant/Accused, the appellant had given her a chocolate and since the victim refused to receive it, the Accused forcibly put it in her shirt pocket and also pinched her cheek and kissed her. When the victim tried to escape from him, the accused had hugged her from behind. Hence, a complaint has been preferred by the mother of the victim on 21.04.2023.

3. Based on the complaint lodged by the mother of the victim,



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the respondent Police registered an FIR in Crime No.14/2023 on 21.04.2023 against the appellant for the offences punishable under sections 342, 354 (A) I.P.C. and Sections 9 (f), 10 of POCSO Act, 2013, and Sections 3 (1)(v)(i) and 3(2)v(a) of SC/ST (Prevention of Atrocities Act and arrested the appellant on 24.04.2023 and remanded him to the Judicial custody.

4. Heard Mr.S.Karthikeyan, learned counsel for the appellants and Mr.R.Vinothraja, learned Government Advocate (Crl. side) appearing for the respondents 1 and 2 and Mr.M.Selvin, learned counsel for the 3rd respondent/defacto complainant.

5. The learned counsel for the appellant contended that the allegations levelled against the appellant are false and he has been in prison for the past three months. He further contended that he has lost his job since he has been placed under suspension. He therefore prayed for enlarging him on bail.

6. Per contra, the learned Government Advocate (Crl. side)



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appearing on behalf of the respondents 1 and 2 submitted that the offence committed by the appellant is serious in nature and therefore he cannot be enlarged on bail.

7. Based on the complaint lodged by the mother of the victim, 164 Cr.P.C. statement of the victim was recorded by the Judicial Magistrate I, Tindivanam in which the victim has stated that the accused had assaulted her and also hugged her. It is contended by the learned Government Advocate (Crl. side) that the final report has been filed in the instant case.

8. Considering the facts and circumstances of the case and also the submissions made by the counsels appearing on either side, this Court is of the view that the appellant/accused can be enlarged on bail with certain conditions.



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9. Accordingly, this Criminal Appeal stands allowed. The appellant/accused is granted bail on the following conditions:

- i. the appellant is directed to execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Villupuram;
- ii. the appellant and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Villupuram, may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;
- iii. the appellant is directed to appear before the trial Court everyday at 10.30 a.m., until further orders;
- iv. 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 have 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***



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5560/;

- v. if the appellant thereafter abscond, a fresh FIR can be registered under Section 229A IPC; and
- vi. if the appellant does not comply with the condition (i) above, the Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Villupuram, may take them into custody.

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2. The Deputy Superintendent of Police
Tindivanam Sub Division,
Tindivanam.
4. The Superintendent of Police,
Central Prison,
Cuddalore.
5. The Section Officer,
Criminal Section,
Madras High Court, Chennai.

R. HEMALATHA, J.



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