



Crl.A.No.1136 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.1136 of 2023

Ravikumar @ Kumar,
S/o. Manokar

... Appellant

Vs.

1. The Deputy Superintendent of Police,
Villupuram District, Villupuram.

2. The Inspector of Police,
All Women Police Station,
Villupuram.
(Cr.No.59 of 2023)

3. Poongavanam

... Respondents

Prayer : Criminal Appeal filed under Section 14(A)(2) SC/ST of Prevention of Atrocities Act, 1989, to set aside the order dated 14.07.2023 made in Crl.M.P.No.1406 of 2023 on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram and to enlarge the appellant on bail in connection with Crime No.59 of 2023 on the file of the 2nd respondent police by allowing this Criminal Appeal.

For Appellant : Mr.R.Sasha
for Mr.M.Guruprasad

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor [R1 & R2]



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JUDGMENT

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This appeal is filed against the order passed in Crl.M.P.No.1406 of 2023 dated 14.07.2023 by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram.

2. Notice has been taken to the third respondent/de-facto complainant and the same has been served. Affidavit of Service has also been filed. It is seen that the second respondent police has informed to the third respondent/de facto complainant about the pendency of the present appeal. Though the name of the third respondent has been printed in the cause list, none appeared for the third respondent. Since the third respondent was informed about the pendency of the present appeal, it seems that the third respondent has no serious objection in proceeding with this appeal.

3. The brief facts of the case is that, the case in Crime No.59 of 2023 has been registered against the appellant and his family members for offences under Sections 451, 294(b), 147, 354A, 355, 506(i) of IPC, 8 of



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Protection of Child from Sexual Offences Act, 2012, 3(1)(w)(i) and 3(2)(va) of SC/ST Prevention of Atrocities Act, 1989.

4. On 08.06.2023, the de-facto complainant Poongavanam, residing at Kulathmettu Street, Veerangaipuram, Kandachipuram Taluk, Villupuram District, had lodged a complaint against the appellant and his family members. It is stated in the complaint that the *de facto* complainant belongs to ST (Irular) community and he has one son and two daughters and his wife is employed as a house maid in Kuwait. The de-facto complainant and his youngest daughter aged about 17 years alone are residing in the above address and his daughter was studied up to “X” standard. The de-facto complainant is used to go and sleep in his field to guard his goats, hence his daughter alone would be at home. This being so, on 05.06.2023 at about 12.00 p.m, the appellant had entered into the de-facto complainant's house and attempted to misbehave with the de-facto complainant's daughter. On the cry of the victim girl, the appellant ran away from the house and she was waiting for the de-facto complainant to return home. When the de-facto



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complainant returned home, she was found crying and informed about the night incident. Thereafter, when the de-facto complainant has questioned the appellant and his family members, the appellant's family members assaulted the de-facto complainant and his daughter with broom and chappals. Further, they threatened the de-facto complainant and his daughter not to give complaint, otherwise they would be sent away from the village. Gaining confidence and support, the de-facto complainant lodged a complaint on 08.06.2023. Pursuant thereto, the appellant was arrested and remanded to judicial custody on 09.06.2023. The appellant filed a bail application in Crl.M.P.No.1406 of 2023 on the file learned Sessions Judge, Special Court for Exclusive Trail of Cases under POCSO Act, Villupuram. The Lower Court on finding that the appellant was in custody for only 36 days as on that date and the investigation was in progress, dismissed the bail application on 14.07.2023. Hence, the appellant had filed the present appeal.

5. The contention of the learned counsel for the appellant is that as on date, the appellant has been in custody for 143 days and the de-facto



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complainant and his family members are residing in the same village and in the same street also. Hence, both families know their social and economic status and there has been money transactions between both the families. Even according to the victim girl, the de-facto complainant had taken a loan from the appellant's father and there was some dispute with regard to the repayment of the loan and the appellant had been insisting and forcing the de-facto complainant to repay the loan, which dispute has been pending for long time. Hence, in order to escape from all the financial liabilities, the appellant has been falsely implicated in this case.

6. Learned counsel submitted that in this case, the appellant's father, mother, brother and his brother's wife have also been falsely implicated in this case. Learned counsel further submitted that after the statutory period of 60 days, the charge sheet has been filed including Section 458 of IPC and the same has been taken on file in Spl.S.C.No.117 of 2023.

7. As regards A2 to A5, all of them surrendered before the Special Court on 26.07.2023 and they were granted bail. The learned counsel for the



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appellant submits that now the investigation has been completed and the appellant is facing trial and the case is posted for hearing on 02.11.2023.

Hence, further incarceration of the appellant is for no purpose and it would amount to pre-trial conviction.

8. The learned Additional Public Prosecutor strongly opposed the appeal by submitting that though investigation has been completed in this case, the victim and the appellant are residing in the same village and in the same street, the presence of the appellant would cause fear to the victim girl. He further submitted that in the statement under Section 164 Cr.P.C. of the victim girl, she states about the threat issued by the appellant's family to her father to withdraw the complaint lodged against the appellant. He further submitted that in this case, A2 to A5 were granted bail since the allegation against them is not serious as that of the allegations against the appellant and the appellant, who is aged about 35 years had attempted to misbehave with the minor girl aged 17 years taking advantage of her loneliness. Submitting as above, learned counsel strongly opposed for grant bail to the appellant.



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9. The learned Additional Public Prosecutor further submitted that in the charge sheet 19 witnesses statements recorded and documents were filed. Therefore, the trial itself can be completed within a stipulated period.

10. Considered the submissions made on either side and perused the materials available on record.

11. It is seen that the appellant and the victim girl are residing in the same village and in the same street and both families were aware about their social and economic status. From the evidence on record, it is clear that the *de facto* complainant had borrowed money from the appellant and defaulted in repayment of the same and hence, there was some money dispute between them. Hence, the contentions of the learned counsel appearing for the appellant sounds reasonable. Further, in this case, other accused have been granted bail, the appellant alone is in incarceration for nearly 143 days. The trial is in progress. After release of A2 to A5 on bail, it is seen they have not disturbed or threatened the *de facto* complainant and his daughter. In the given circumstances, this Court is of the view that the appellant can be



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granted bail subject to certain conditions.

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12. Accordingly, the appellant is ordered to be released on bail subject to the following conditions:

- (i) The appellant shall execute a bond for a sum of Rs.5,000/- (Rupees five thousand only) within a period of 15 working days from the date of receipt of a copy of this order 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, Villupuram, failing which, the Criminal Appeal for bail shall stand dismissed and on further condition that;
- (ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Judge may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;
- (iii) the appellant shall appear before the trial Court on all hearing dates without fail.
- (iv) The appellant shall not give any inconvenience or trouble knowingly or unknowingly to the third respondent/de facto complainant, failing which, the bail shall be cancelled without any further reference.
- (v) the appellant shall not commit any offences of similar nature;



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- (vi)the appellant shall not abscond either during investigation or trial;
- (vii)the appellant shall not tamper with evidence or witness either during investigation or trial;
- (viii)on breach of any of the aforesaid conditions, the learned Judicial 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 5560]*;
- (ix)if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

13. In view of the above, the order 14.07.2023 made in Crl.M.P.No.1406 of 2023 is set-aside and the Criminal Appeal is, accordingly, allowed.

01.11.2023

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation: Yes/No
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Note: Issue order copy on 02.11.2023

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M.NIRMAL KUMAR, J.

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To

- 1.The learned Sessions Judge, Special Court for Exclusive Trail of Cases under Pocso Act, Villupuram.
2. The Deputy Superintendent of Police,
Villupuram District, Villupuram.
3. The Inspector of Police,
All Women Police Station,
Villupuram.
- 4.The Public Prosecutor,
High Court, Madras.
- 5.The Superintendent,
District Jail, Villupuram.

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