



Crl.A(MD)No.882 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2023

CORAM

THE HONOURABLE MR. JUSTICE G.ILANGO VAN

Crl.A(MD)No.882 of 2022

Mohamed Yusuf .. Appellant/Sole Accused

Vs.

1.The State rep. by
The Deputy Superintendent of Police,
Uthamapalayam Sub Division,
Uthamapalayam,
Theni District. ... 1st Respondent/Investigating Officer

2.The Inspector of Police,
Uthamapalayam Police Station,
Theni District.
In Crime No.391 of 2022. ... 2nd Respondent/Complainant

3.Ayyanar ... 3rd Respondent/Defacto Complainant

4.Vinothini ... 4th Respondent/Victim

Prayer : This Appeal is filed under Section 14A(2) of the Scheduled Castes and the Scheduled Tribes (POA) Amendment Act 2015, to set aside the order of Special Court for Trial of Cases under SC/ST (POA) Act, Theni, made in Cr.M.P.No.1350 of 2022, dated 13.12.2022 and allow this appeal by enlarging the appellant on bail in connection with Crime No.391 of 2022 on



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the file of the 1st respondent.

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For appellant : Mr.K.Yasar Arafath
For R-1 & R-2 : Mr.B.Nambi Selvan
Government Advocate (Crl. Side)
For R3 : Mr.P.Manikandan, Legal Aid Counsel.
For R4 : Mr.S.Ganesh Kumar, Legal Aid Counsel.

J U D G M E N T

This Criminal Appeal has been filed to set aside the order of Special Court for Trial of Cases under SC/ST (POA) Act, Theni, made in Cr.M.P.No.1350 of 2022, dated 13.12.2022 and allow this appeal by enlarging the appellant on bail in connection with Crime No.391 of 2022 on the file of the 2nd respondent.

2.The appellant, who was arrested and remanded to judicial custody on 09.11.2022, for the offences punishable under Sections 420, 376 IPC r/w Section 3(2)(v) of SC/ST (POA) Amendment Act 1989 in Crime No.391 of 2022 on the file of the respondent police, seek appeal bail.

3.The case of the prosecution is that the defacto complainant is the father of the victim girl. He lodged a complaint originally stating that their



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daughter was found missing from his house from 25.10.2022. On the basis of the above said complaint, the case was registered in Crime No.391 of 2022 under Woman Missing Caption. During the course of investigation, it was found that this petitioner appears to have kidnaped the victim girl on false promise that he will marry took her to his house. On 02.11.2022 at about 08.00 a.m., he married the victim girl and after that she was subjected to frequent sexual assault. On the basis of the above said investigation, alteration report was filed altering the offences to Sections 420, 376 of IPC r/w 3(2)(v) of SC/ST (POA) Act, 1989. This petitioner was arrested and remanded to judicial custody on 09.11.2022. Ever since, he is in custody. Seeking bail, he moved an application before the Special Court, that came to be dismissed on 13.12.2022. Against which this appeal has been preferred by the accused.

4.On earlier occasion, considering the above said facts and circumstances of the case, this Court directed the petitioner to deposit a sum of Rs.75,000/- to the credit of the crime number before the trial Court on or before 08.02.2023. Since the victim girl belongs to the Scheduled Caste community, the above said amount was permitted to take as compensation and she was permitted to with draw the above said amount also. That amount



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was ordered to be deducted from any amount that may be fixed by the trial Court to be paid by the Government. The matter was listed today for reporting compliance.

5.Today, the victim girl has filed an affidavit stating that she has received Rs.75,000/- from the petitioner's father-in-law and she has no objection for granting bail to the petitioner.

6.In view of the above said affidavit filed by the victim girl, this Court is inclined to allow this appeal and grant bail to the appellant with certain conditions.

7.Accordingly, the Criminal Appeal is allowed and the order, dated 13.12.2022 made in Crl.M.P.No.1350 of 2022 on the file of the learned Sessions Judge, Special Court for Trial of SC / ST (PoA) Act Cases, Theni District, is set aside. The appellant is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Trial of SC / ST (PoA) Act Cases, Theni District, and on further condition that:



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[a] the appellant shall file an undertaking affidavit to the effect that he will not make any trouble to the defacto complainant in future;

[b] the appellant shall appear before the concerned court, daily at 10:30 a.m. until further orders;

[c] the appellant shall not tamper with evidence or witness either during investigation or trial;

[d] the appellant shall not abscond either during investigation or trial;

[e] On breach of any of the aforesaid conditions, the 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 Trial Court itself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

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Index : Yes/No

Internet : Yes/No

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To

1.The Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Theni,

2.The Deputy Superintendent of Police,
Uthamapalayam Sub Division, Uthamapalayam,
Theni District.



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3.The Inspector of Police, Uthamapalayam Police Station,
Theni District.

4.The Superintendent, District Jail, Theni.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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G.ILANGO VAN,J.

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