



Crl. A.(MD)No.1042 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 04.12.2023

Pronounced on : 12.12.2023

CORAM

THE HONOURABLE MR. JUSTICE P.VADAMALAI

Crl. A.(MD)No.1042 of 2023

Karthick

... Appellant

Vs.

1. State Rep. by
The Deputy Superintendent of Police,
Kovilpatti Sub Division,
Thoothukudi District.

2.The Inspector of Police,
All Women Police Station,
Kadambur,
Thoothukudi District.

3.L.Balakrishnan

... Respondent

PRAYER: Criminal Appeal filed under Section 14(A)(1) of the Schedule Castes and Tribes Prevention of Atrocities Act, 2015 as Amended by Act 1 of 2016, to call for the records pertaining to the order passed in Cr.M.P.No.1040 of 2023 in Crime No.4 of 2023 on the file of the Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi dated 26.10.2023 and set aside the same as illegal and enlarge the appellant on bail by allowing this Criminal Appeal.



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For Appellant : Mr.M.Prabu
For R1 & R2 : Mr.B.Nambi Selvan
Additional Public Prosecutor

JUDGMENT

This appeal is filed to set aside the order passed in Crl.M.P.No.1040 of 2023 dated 26.10.2023 passed by the Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi, and release the appellant on bail.

2.According to the prosecution the appellant and other accused said to have committed the offence punishable under Sections 417, 354(A), 376 of IPC and Sections 3(1)(w)(ii), 3(2)(v) of SC/ST (POA) Act.

3.The case of the prosecution is that one year ago, one day at about 10.00 a.m., when the unmarried daughter of the complainant was at her home, the accused who came there made a false promise to the *de-facto* complainant's daughter that he would marry her and took her to Kanyakumari and also committed penetrative sexual assault on her and thereby, the *de-facto* complainant's daughter gave birth to a child. Hence, the *de-facto* complainant lodged a complaint before the respondent police and F.I.R. was registered in Crime No.4 of 2023 against the appellant and other accused for the offences under Sections 417, 354(A), 376 of IPC and Sections 3(1)(w)(ii), 3(2)(v) of SC/ST (POA) Act. The appellant moved bail in Crl.M.P.No.1040 of 2023 before the Trial Court and the same was dismissed on 26.10.2023.



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4. Aggrieved by the dismissal of bail petition, the appellant has preferred the present Criminal Appeal before this Court.

5. Heard both sides and perused the records in this Criminal Appeal.

6.The learned counsel for the appellant would submit that the appellant is innocent and he has not committed any offence as alleged by the prosecution and the appellant was arrested and remanded to judicial custody on 03.10.2023. He would further submit that this Court has granted bail to the co-accused in Crl.A(MD).No.943 of 2023 dated 16.11.2023 and the appellant is the breadwinner of his family, the old age parents also being to him and hence he seeks to grant bail to the appellant.

7.The learned Additional Public Prosecutor appearing for the first and second respondents would submit that totally there are three accused in this case and the appellant herein arrayed as Accused No.3. Accused No.1 has already been released on bail by the Trial Court and A2 has already been released on bail by this Court. He would further submit that the investigation has already been completed and the charge sheet has been filed before the concerned Court and the DNA result has also been received. As per the DNA report, the appellant is the biological father of the child.



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8. Considering the above facts and circumstances and also considering the fact that this Court has granted bail to the co-accused Crl.A(MD).No.943 of 2023 dated 16.11.2023 and also considering the fact that the investigation has been completed and the period of incarceration, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 26.10.2023 passed in Crl.M.P.No.1040 of 2023 on the file of the Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi.

9. Accordingly, the Criminal Appeal is allowed and the order dated 26.10.2023 passed in Crl.M.P.No.1040 of 2023 on the file of the Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi, is set aside. The appellant is ordered to be released on bail on his executing 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 for Trial of Cases under SC/ST (POA) Act, Thoothukudi, and on further conditions that:

(a) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Special Court for Exclusively Trial of SC/ST Act Cases (PCR), Thoothukudi, may obtain a copy of their valid identity card to ensure their identity.

(b) the appellant shall stay at Madurai and report before the Inspector of Police, Y.Oothakadai Police Station, Madurai, daily at 10.30 a.m., and 5.30 p.m., until further orders, except on hearing dates.

(c) the appellant shall not tamper with evidence or witnesses.



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(d) On breach of any of the aforesaid conditions, the learned Trial Court is entitled to take appropriate action against the appellant in accordance with law as if the conditions have been imposed by the Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005) AIR SCW 5560]**.

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

12.12.2023

Index : Yes/No

Internet : Yes/No

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To

1. The Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi.
2. The Deputy Superintendent of Police,
Kovilpatti Sub Division,
Thoothukudi District.
3. The Inspector of Police,
All Women Police Station,
Kadambur,
Thoothukudi District.
4. The Superintendant,
Central Jail,
Salem.
5. The Superintendent,
Central Prison,
Palayamkottai,
Tirunelveli District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J

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