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Crl.A.No.310 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.310 of 2024

Rajkumar

... Appellant

Vs.

1.State rep by:-

Deputy Superintendent of Police,
Dharmapuri Circle.

2.Inspector of Police,

Karimangalam Police Station,
Dharmapuri District.

3.R.Chitra

... Respondents

PRAYER: Criminal Appeal is filed under Section 14-A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 r/w 374(3) of Cr.P.C., to set aside the order passed in bail petition in Crl.M.P.No.530 of 2024, dated 26.02.2024 on the file of the respondent Police and enlarge the Appellant on bail.

For Appellant	:	Mr.P.M.Jayachandran
For R1 & R2	:	Mr.S.Raja Kumar, Additional Public Prosecutor
For R3	:	Mr.D.Ramesh Kumar

JUDGMENT

Challenging the impugned order, dated 26.02.2024 passed by the learned Principal District Judge, Dharmapuri in Crl.M.P.No.530 of 2024, this criminal



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appeal filed by the appellant/accused who is an accused in Crime No.39 of 2024 for offence under Sections 323 & 417 of IPC r/w Sections 3(1)(s), 3(1)(2)(ii) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

2.The learned counsel for the appellant submitted that the appellant and the 3rd respondent/victim girl were working in Rohit India Pickle Factory and they were in love for the past 2 ½ years. During that period, the appellant and the victim girl had physical relationship and also got married on 01.01.2022 in Muniyappan Temple secretly. After the marriage, both of them were living in their residence separately and they used to meet often. The appellant belongs to MBC Vanniyar community and victim girl belongs to Scheduled Caste community. On coming to know about the marriage, the appellant's parents opposed the same and the appellant was taking steps to convince them to accept the marriage and to have matrimonial life with victim girl. But the victim girl insisted the appellant for a societal marriage immediately. On 07.10.2023 and 23.01.2024, the victim girl had gone to the house of appellant but the appellant was not there. Hence, the victim girl got frustrated and lodged complaint as though on the false pretext of marriage and on misconception, the appellant had physical relationship with the victim girl. The victim girl also included the



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appellant's father, mother and brother in the case who arrested and released on bail. The appellant is also similarly placed. The love affair and performance of marriage projected as a case of rape. Hence, he prays for bail setting aside the impugned order.

3.The learned Additional Public Prosecutor appearing for the respondents 1 and 2 submitted that earlier the appellant approached this Court in Crl.O.P.No.2688 of 2024 to consider the bail application on the same day. This Court by order, dated 09.02.2024 directed the appellant to surrender before the Special Court. On surrender of the appellant, notice issued to the victim girl. The victim girl completed M.A., and was working in Rohit India Pickle Factory and residing with her parents. In the said factory, the appellant was also worked. Both appellant and victim girl had love affair for the past 2½ years. On the pretext of false marriage, the appellant had physical relationship with victim girl, due to which she got pregnant. During the year 2022, the appellant tied Thali around the neck of victim girl in Muniyappan Temple and asked her to be in her house till he convince his parents to take her back to the matrimonial home. During the month of October, 2023, when the victim girl had gone to the house of appellant, she was abused by appellant and other accused calling her caste name and chased her out. Again on 23.01.2024 when the victim girl had gone to the appellant's house,



she was not allowed to meet the appellant but the other accused abused and threatened her calling caste name and chased out. Having no other option, the victim girl lodged the complaint with the 2nd respondent Police Station. On coming to know about registration of case, the appellant was absconding. But A2 to A4 arrested and later released on bail by the Special Court. As per the direction of this Court in Crl.O.P.No.2822 of 2024, the appellant surrendered before the Special Court and filed the bail application. The Special Court finding that investigation is at the crucial stage, dismissed the bail application *vide* impugned order, dated 26.02.2024.

4.He further submitted that during investigation, the victim girl was sent for medical examination and report is yet to be received. The witnesses from the victim girl's village and appellant's village to be examined, their statements to be recorded. The appellant surrendered only on 07.02.2024. If the appellant is let out on bail, there is possibility of tampering the witnesses. In this case, the charge sheet can be filed well before ninety days of the arrest of the appellant and the trial itself can be completed within the stipulated time. Hence, prays for dismissal.

5.The learned counsel appearing for the 3rd respondent/victim girl



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produced photographs of Whatsapp chats to confirm that appellant and victim girl were in love with each other. He submitted that the victim girl is a Post Graduate (M.A.), due to family situation and compulsion, she had to go for work in a pickle factory where the victim girl came in contact with appellant. The appellant was very much aware about the social status of the victim girl. He also claimed that he does not have any objection, he is also having similar background, he has not disclosed his community status. Hence, the victim girl on misconception had agreed to continue the relationship with him. Taking advantage of the relationship, the appellant had physical relationship with her. When she became pregnant during the month of August 2022, the appellant forced her to consume Combipack of Mifepristone and Misoprostol tablets for abortion and he promised that he would inform his parents, get approval and thereafter they can lead a matrimonial life. Later it came to know that the promise made only to evade and escape for time being and thereafter he became incommunicable. The victim girl gone twice to the appellant's house where she was abused, assaulted and called by her caste name in front of the villagers and she was chased out from the village. Having no other way, she lodged a complaint. A2 to A4 are the father, mother and brother of the appellant, they were arrested and later released on bail. The appellant absconded and thereafter approached this Court and obtained order, dated 09.02.2022 in Crl.O.P.No.2688



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of 2024 to consider his bail application on the same day. The victim girl was served with the notice, she filed written objections and also produced the photographs of Whatsapp messages. Considering the same, the Special Court dismissed the bail application of the appellant. The learned counsel further submitted that Thali tied in Muniyappan Temple on 01.01.2022 is a secretive one, which is only to gain confidence to have physical relationship and to cheat victim girl. Even at the time of marriage, the appellant refused to take any photographs in the temple. This only proves that the appellant right from the beginning, had no intention to marry the victim girl and he was on her body. Hence, he strongly opposed for granting bail.

6.Considering the submissions and on perusal of the materials, it is seen that the appellant had surrendered only on 26.02.2024 and now the victim girl sent for medical examination and the appellant to be produced for medical examination. Further, 164 Cr.P.C statement to be recorded and witnesses from both village of the appellant as well the victim girl are to be examined. The investigation is at a crucial stage. The grant of bail to the parents and brother of the appellant would not pave way for the appellant to get the same relief. It is also seen that the victim girl is scary about the appellant coming out and tampering the evidence.



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7.In view of the above, this Court is not inclined to grant bail to the appellant. Accordingly, this criminal appeal stands allowed confirming impugned order, dated 26.02.2024 passed by the learned Principal District Judge, Dharmapuri in Crl.M.P.No.530 of 2024.

26.03.2024

Speaking order/Non-speaking order

Index: Yes/No

Internet: Yes/No

vv2

To

1.The Deputy Superintendent of Police,
Dharmapuri Circle.

2.The Inspector of Police,
Karimangalam Police Station,
Dharmapuri District.

3.The Public Prosecutor,
Madras High Court.



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M.NIRMAL KUMAR, J.

vv2

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