



CrI.A.No.739 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:10.07.2024

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THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

CrI.A.No.739 of 2024

Neelakandamoorthi

.....Appellant/Accused

Vs

1. Deputy Superintendent of Police,
Tiruppur.

2. State by the Inspector of Police,
Perumanallur Police Station,
Tiruppur District.
(Crime No.78 of 2024)

3. Anusuya

.... Respondents

PRAYER: Criminal Appeal filed under Section 14 A (2) SC/ST, 1989 to set aside the order dated 06.05.2024 made in ECMP.No.295 of 2024 passed by the learned Sessions Judge Mahalir Neethimandram, FRMC, Tiruppur and to allow the Criminal Appeal and enlarge the appellant on bail.

For Appellant : Mr.J.Franklin

For Respondents : Mrs. G.V.Kasthuri
Addl.Public Prosecutor [R1 & R2]



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Party-in-Person [R3]

J U D G M E N T

The Criminal Appeal has been filed as against the order dated 06.05.2024 made in ECMP.No.295 of 2024 passed by the learned Sessions Judge Mahalir Neethimandram, FRMC, Tiruppur and to enlarge the appellant on bail.

2. When the matter is taken up for hearing, learned counsel for the appellant submitted that the appellant and the victim girl loved each other and committed sexual assault. Thereafter, the appellant came to know that the victim girl has not attained the age of majority. Based on the complaint given by the mother of the victim girl, the appellant was remanded to judicial custody from 21.02.2024. He further submits that the appellant and the mother of the appellant have filed an affidavit with an undertaking that the appellant will marry the victim girl after she attains the age of majority. Hence, he prays this Court for grant of bail to the appellant.



3. The learned Additional Public Prosecutor appearing for the respondents 1 and 2 submits that if the appellant fails to marry the victim girl after she attains the age of majority, this Court may grant liberty to the *de- facto* complainant to work out her remedy in the manner known to law.

4. The third respondent (party-in-person) appeared before this Court and has no objection for granting bail to the appellant.

5. Considering the period of incarceration and also taking into consideration the affidavit filed by the appellant and his mother, this Court is inclined to grant bail to the appellant. The affidavit of undertaking filed by the appellant and his mother shall form part and parcel of this judgment.

6. Accordingly, the appellant is directed to be enlarged on bail on condition that the appellant shall execute 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 Mahalir Neethimandram, FRMC, Tiruppur and on further condition that:



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(a) the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the appellant shall appear before the trial Court at 10.30 a.m. on the first working day of every English Calendar month, pending appeal

(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 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 5560]**; and;*

(f) if the accused thereafter absconds, a



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fresh FIR can be registered under Section 229-A IPC.

7. It is made clear that the *de-facto* complainant is at liberty to work out her remedy before the appropriate forum, if the appellant fails to marry the victim girl after she attains the age of majority.

8. Accordingly, the Criminal Appeal stands allowed.

10.07.2024

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To

1. The Sessions Judge Mahalir Neethimandram, FRMC, Tiruppur
2. Deputy Superintendent of Police,
Tiruppur.
3. The Inspector of Police,
Perumanallur Police Station,
Tiruppur District.
4. The Public Prosecutor,
High Court, Madras.
5. The Central Prison,
Coimbatore.



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M.DHANDAPANI,J.

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