



Crl.A.No.1306 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.A.No.1306 of 2024

Arivazhagan

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Appellant /Accused

Vs.

1. The State rep.by
The Superintendent of Police,
Cuddalore, Cuddalore District.

2. The Inspector of Police
All Women Police Station,
Chidambaram,
Cuddalore District.

3.Uma

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Respondents / Complainant

Prayer: Criminal Appeal filed under Section 14(A)(2) of the SC/ST (Prevention of Atrocities) Act, 1989 to set aside the order in Crl.M.P.No.890 of 2024 passed by the Special Court for Exclusive Trial of cases under POCSO Act, Cuddalore and enlarge the petitioner on bail, pending trial in Spl.SC No.35 of 2024.

For Appellant : Mr.M.Soundar Vijay Arul Ram

For Respondents-1 & 2 : Dr.C.E.Pratap



Crl.A.No.1306 of 2024

Government Advocate(crl.side)

For R-3

: Mr.E.V.Chandrasekaran
Legal aid counsel

JUDGMENT

This appeal has been filed challenging the dismissal of the petitioner's application for bail by the trial court.

2. It is the case of the prosecution that the petitioner and the victim belong to the same village and that the petitioner had offered food to the victim and thereafter took her to a haunted house, gagged her mouth and committed penetrative sexual assault.

3. The learned counsel appearing for the petitioner would submit that the petitioner has been falsely implicated in this case; and that he is in custody from 22.12.2022; and that the respondents have not filed their final report; and that the victim–PW1 was examined in chief and cross examined by the learned counsel for the appellant; and in view of the continuous incarceration, the appellant is unable to defend himself in the trial effectively and therefore the order dismissing the bail petition may be set aside and the



Crl.A.No.1306 of 2024

appellant may be released on bail.

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4. The learned counsel appearing on behalf of the third respondent/defacto complainant would submit that considering the fact that the appellant is likely to tamper the witness if he is released on bail, this appeal may be dismissed.

5. The learned Government Advocate (crl.side) would submit that the respondents, after investigation had filed the final report and the case is now posted for cross examination of the parents of the victim and the victim has already been examined.

6. Heard the learned counsel for the appellant as well as third respondent and the learned Government Advocate (crl.side) appearing for the respondents 1 & 2.



7. Considering the fact that the final report had been filed and it is for the prosecution to establish the allegations against the appellant in the trial, the period of incarceration; and the fact that the victim has already been examined and the appellant has to defend himself in the trial, this court is inclined to grant bail to the appellant.

8. 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.25,000/- (Rupees Twenty Five thousand only), with two sureties each for a like sum to the satisfaction of the learned Special Court for Exclusive Trial of cases under POCSO Act, Cuddalore ;

(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/accused shall appear before the trial court on all hearing dates without fail.

(iv)the appellant shall not commit any offences of similar nature;

(v)the appellant shall not abscond either during



Crl.A.No.1306 of 2024

investigation or trial;

(vi)the appellant shall not tamper with evidence or witness either during investigation or trial;

(vii)on breach of any of the aforesaid conditions, the learned Trial Judge 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]*;

(viii)if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

9. In view of the above, the impugned order in Crl.M.P.No.890 of 2024 passed by the Special Court for Exclusive Trial of cases under POCSO Act, Cuddalore in Spl.SC No.35 of 2024 is set aside and the Criminal Appeal is allowed.

29.11.2024

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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Note : Issue order copy by 03.12.2024

Upload the order copy forthwith.



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Crl.A.No.1306 of 2024

SUNDER MOHAN, J.

rgr

To

1.The Superintendent of Police,
Cuddalore, Cuddalore District.

2. The Inspector of Police
All Women Police Station,
Chidambaram,
Cuddalore District.

3.The Special Judge
for Exclusive Trial of cases
under POCSO Act,
Cuddalore.

4.The Superintendent of Police,
Central Prison, Cuddalore.

5.The Public Prosecutor,
High Court, Madras.

Crl.A.No.1306 of 2024

29.11.2024