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Crl. A. No.1252 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2024

CORAM:

THE HON'BLE MR. JUSTICE M. NIRMAL KUMAR

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Baskaran @ Bagudu Baskaran

... Petitioner

vs.

1. State Rep. by
The Deputy Superintendent of Police,
Office of Deputy Superintendent of Police,
Ranipet District.

2. State Rep. by
The Inspector of Police,
All Women Police Station, Ranipet,
Ranipet District.
(Crime No.7 of 2022)

3. Amutha

... Respondents

Prayer: Criminal Appeal filed under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 as amended by Act 1 / 2016 to set aside the order passed in Crl. M.P.No.1176 of 2024 dated 06.08.2024 on the file of the Special Court for Exclusive Trial of cases under POCSO Act, 2012 at Vellore and enlarge the appellant on bail pending trial in Spl.S.C.No.38 of 2023 on the file of the Special Court for Exclusive Trial of cases under POCSO Act, 2012 at Vellore.

For Petitioner : Mr.M.Vignesh



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for Mr. T.Muruganantham

For Respondents : Mr. R. Vinothraja
Govt. Advocate (Crl. Side)
for R1 and R2

Ms.Jayshree Dharbar
(578/2021) for R3

ORDER

The petitioner / accused No.1 in Spl.S.C.No.38 of 2023 had filed a bail application in Crl. M.P.No.1176 of 2024. The Lower Court by its order dated 06.08.2024 dismissed the bail petition. Against which the present appeal has been filed, seeking bail.

2. The contention of the petitioner is that the petitioner has been falsely implicated in this case. The victims in this case are none other than his neighbours. There was some dispute between ladies and there was some dispute with regard to sharing of common space and water and there was some fight. Taking advantage of the petitioner's previous cases, a false case has been projected as that the petitioner entered into the house of the victim girl and committed rape on the complainant (Mother) and her daughter and the same is also recorded in the petitioners mobile phone. Not satisfied with that, petitioner's wife has been made as A2 as how she was supporting for the petitioner's illegal act. The petitioner has



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been arrested and is in prison from 04.12.2022. For the purpose of contemplating defence and instructing his counsel, he needs to let out on bail. He further submitted that the alleged occurrence took place on 28.11.2022. But the complaint has been lodged only on 03.12.2024 with a delay of 5 days and no explanation has been given for the delay. Hence, prays for bail.

3. Learned Public Prosecutor filed his counter and submitted that the petitioner is a notorious rowdy having several cases which are all pending Trial. But for the present case, in none of the cases he had been in prison. He is now well versed in the Court proceedings having battery of advocates and with the influence in the local area, he forcibly entered into the neighbour's house and committed rape on the complainant (Mother) and also committed inhumane act of rape on the complainant's minor daughter in front of the second victim / Complainant. He further submitted that in this case, on the complaint of the victim, a case has been registered. Complaint received, registered and later altered from Sections 450, 345 (B), 354 (C), 307, 376 (2) (n), 506 (i), 109 I.P.C. and Section 5 (1), 5(r), r/w. 17, 11 (V), 12, 14 POCSO Act, 2012 @ to u/s. 354B, 376 (2) (n), 506 (ii), 109, 323, 449, 342 I.P.C., Section 5 (1), 17, 5 (h), 5 (u),



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6, 8, 15 (1) POCSO Act and Section 3 (2) (va) SC/ST POA Act and Section 66 E IT Act, victims were produced before the learned Judicial Magistrate Court No.II, Walajapet to record 164 Cr.P.C. statement and medical examination conducted, report received and thereafter, on conclusion of investigation, charge sheet has been filed. The Trial is at the conclusion stage. Except for Investigating Officer, all other witnesses have been examined. At this stage, granting bail to the petitioner will only facilitate the petitioner to abscond and in every possibility he will tamper the evidence and create hardship for further investigation.

4. The legal aid counsel for the third respondent submitted that the petitioner's act is inhumane, he forcibly entered into the house of the neighbours and committed rape on both mother and daughter and he also recorded the same in his mobile phone. A2, his wife was standing closely outside the house of occurrence, supporting A1 for committing the act. A1 was fully intoxicated and further threatened the victims. The complainant being a single lady with great difficulty had been bringing up her minor daughter, sending her daughter to school. Taking advantage of the fact that no male member is there to support her and the victims ailing from Scheduled Caste Community and no one would come for



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their defence, the petitioner had committed the act of forcible rape. She further submitted that in this case investigation is completed. Charge sheet filed. Trial is almost on conclusion stage.

5. In support of her submission, she relied upon the following judgments and orders:

i. Judgment of this Court in the case of Govindan alias Govindarajan and Others Vs. State rep. by RDO, Hosur reported in 2002 (2) MWN (Cr.) 147;

ii. Judgment of Uttarakhand High Court in the case of Sarafat Vs. State of Uttaranchal reported in 2005 SCC Online Utt 125;

iii. Order of Rajasthan High Court at Jodhpur in S.B. Criminal Miscellaneous Bail Application No.10631 of 2024 reported in [2024:RJ-JD:41068].

6. Both the victims have deposed before the Trial Court. As per the earlier statement, there might be slight variations but it is natural to prove that the victims could not regain to the normalcy immediately and it would take some time for them to come out of the shock and trauma and



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for that reason only, there has been delay in lodging the compliant and variations in the statement and nothing more. Her daughter has confirmed that the petitioner had committed penetrative sexual assault and rape on them. Witnesses have also deposed in this case. Except for Investigating Officer all other witnesses have been examined. If the petitioner is granted bail, life and safety of the victims would be in threat since the petitioner residing in the neighbourhood.

7. Considering the submissions made on both side as well as the legal aid counsel appearing for the victim / third respondent and perusing the records and taking note that Trial is pending, this Court is not inclined to grant bail to the petitioner at this stage. Accordingly, this Appeal is dismissed.

29.10.2024

ab

Index: Yes/No

Internet: Yes/No

Speaking Order/Non-Speaking Order

To

1. The Special Court for Exclusive Trial of cases under POCSO Act, 2012 at Vellore.

2. The Deputy Superintendent of Police,
Office of Deputy Superintendent of Police,
Ranipet District.



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3. State Rep. by
The Inspector of Police,
All Women Police Station, Ranipet,
Ranipet District.

4. Central Prison, Vellore.

5. The Public Prosecutor, Madras High Court, Chennai.



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M. NIRMAL KUMAR, J.

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