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Crl.A.No.1285 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2024

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.A.No.1285 of 2024

S.Anandraj

Vs.

... Appellant

1.The Assistant Commissioner of Police,
AWPS - Central, Coimbatore,
(In Crime No.37 of 2024)

2.K.Bipeena

... Respondents

PRAYER: This Criminal Appeal is filed under Section 14 (A) of the SC and ST Act, 1989, to set aside the order dated 15.10.2024 made in Crl.M.P.No.630 of 2024 passed by the learned Special Court for Trial of Cases under SC/ST (POA) Act, Coimbatore and to allow the above Criminal Appeal by enlarging the appellant on bail.

For Petitioner	: Mr.Mr.N.R.Elango (Learned Senior Counsel)
For R-1	: Mr.R.Vinothraja Government Advocate (Crl side)

ORDER



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This Criminal Appeal has been filed to set aside the order dated 15.10.2024 made in Crl.M.P.No.630 of 2024 passed by the learned Special Court for Trial of Cases under SC/ST (POA) Act, Coimbatore, and to allow the above Criminal Appeal by enlarging the appellant on bail.

2. The submission of the learned counsel for the appellant is that, appellant and defacto-complainant became friends through a mutual friend one Pradeep Suryas. Defacto-complainant was working as a pilot in Air India and she got married to one Nishant. Due to matrimonial dispute, they both separated through mutual divorce in the year 2021. The appellant is already married and having a son. Due to some difference in his marriage life, the matrimonial dispute is pending before the Family Court. The defacto-complainant being an educated professional was fully aware of the marital status of the appellant and the legal impossibility of marrying the appellant, has foisted a false case against the appellant. Appellant is an innocent. Appellant was remanded to judicial custody on 27.09.2024. Therefore, he prays to set aside the order dated 15.10.2024 made in Crl.M.P.No.630 of 2024 and to allow the above Criminal Appeal by enlarging



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the appellant on bail.

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3.The learned Government Advocate (Criminal side) filed counter stating the facts in brief is as follows:

The defacto-complainant had completed her BBA and was working as a pilot in Air India and thereafter she had started preparing for her UPSC Exams. She married one Nishant and due to matrimonial dispute they both separated through mutual divorce in 2021. Thereafter, she met appellant and became close friends. Appellant is married and has five years old son. Due to some matrimonial dispute, he has filed divorce petition which is pending in the family court. The appellant promised to marry the defacto-complainant irrespective of her caste. On 10.07.2024, the appellant requested the defacto-complainant to stay with him. At that time, the appellant had forcible sexual intercourse with her, taken pictures of the defacto-complainant and abused her in filthy language. Thereafter, the defacto-complainant called the appellant through phone as to when they would get married, the appellant abused her with caste name and disconnected the call. It is also submitted that appellant had received



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Rs.16,00,000/- from the defacto-complainant for purchasing a Mini Cooper.

Hence, a case was registered by AWPS, Central, in Cr.No.37 of 2024 for the offences under Section 296 (b), 115 (2), 318 (2), 318 (4), 64, 123 BNS, 66 (E), 67 IT Act 2000 & 3 (1) (w) (i) r/w 3 (2) (va) of SC/ST (POA) Amendment Act, 1989 on 26.09.2024. During the course of investigation, defacto-complainant and the appellant were sent to Government Hospital, Coimbatore, for medical examination. The final report is yet to be received. It is also submitted that on 10.10.2024, 183 BNSS statement of the victim was recorded by the learned Judicial Magistrate No.II, Fast Track Court, Coimbatore. It is further submitted that respondent Police had collected community certificate of accused and the victim and the same was sent to Tahsildhar to check the genuinity of the certificate. Investigation in this case is not completed. Hence, he opposed for grant of bail to the appellant.

4.Heard the learned counsel for the appellant and learned Government



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Advocate (Criminal side).

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5.Considering the submissions made by the learned counsel for the appellant and the learned Government Advocate, the fact is that Defacto-complainant and appellant both educated, attained sufficient age well aware of each other marital status and social status. Both had conscious relationship, had transaction, now Defacto-complainant cannot have a turn around due to financial dispute. In any event substantial investigation completed. Awaiting medical reports of forensic reports, further appellant is in judicial custody from 27.09.2024, this Court is inclined to grant bail to the appellant subject to the following conditions:

(i)The appellant shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each, with two sureties each for a like sum to the satisfaction of the Special Court for Trial of Cases under SC/ST (POA) Act, Coimbatore.

(ii)the sureties shall affix their photographs and Left Thumb



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Impression in the surety bond and the learned Judge may obtain a copy

WEB COPY of their Aadhar card or Bank pass Book to ensure their identity;

(iii)the appellant shall appear before the Special Court for Trial of Cases under SC/ST (POA) Act, Coimbatore, once in three months at 10.30 a.m. and once chargesheet is filed appear before the trial court on all hearing dates and thereafter as and when required for interrogation.

(iv)The appellant shall not give any inconvenience or trouble knowingly or unknowingly to the 2nd respondent, failing which, the bail shall be cancelled without any further reference.

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

(vi)the appellant shall not abscond either during investigation or trial;

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

(viii)on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action



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against the appellants in accordance with law as if the conditions have been imposed and the appellants 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]*;

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

6.In view of the above, the impugned order in Crl.M.P.No.630 of 2024 dated 15.10.2024 passed by the Special Court for Trial of Cases under SC/ST (POA) Act, Coimbatore, is set aside and the Criminal Appeal is, accordingly, allowed.

25.10.2024

Internet : Yes / No
Index : Yes / No
Speaking/Non speaking order
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Note to office: Issue order copy on 28.10.2024.

M.NIRMAL KUMAR.J.,

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- To
- 1.The Assistant Commissioner of Police,
AWPS - Central, Coimbatore,
 - 2.The Special Court for Trial of Cases
under SC/ST (POA) Act, Coimbatore.
 - 3.The Public Prosecutor,
Madras High Court.

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