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Crl.A.No.1295 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.A.No.1295 of 2024

Selvakumar ... Appellant/sole Accused

Vs.

1.State Represented by;
The Deputy Superintendent of Police,
Thellar Police Station,
Thiruvannamalai.
Crime No. 156/2024 ...Respondent/Complainant

2.Devi ... Respondent/Defacto Complainant

PRAYER: Criminal Appeal filed under Section 14A of the Scheduled Castes and Scheduled Tribes Amendment Act, 2015, to set aside the order passed by the Special Court for Trial of Cases under SC/ST (POA) Act, Thiruvannamalai in Crl.M.P.No.1526 of 2024 dated 10.10.2024 and enlarge the appellant on bail in Cr.No.156 of 2024 on the file of the Deputy Superintendent of Police, Thellar Police Station, Thiruvannamalai District.

For Appellant : Mr.S.Silambu Selvan

For R1 : Dr.C.E.Pratap
Government Advocate (Crl. Side)

For R2 : Mr.Dinesh Kumar
Legal Aid Counsel



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JUDGMENT

This appeal has been filed challenging the dismissal of the bail application filed by the appellant.

2. The case of the prosecution is that the appellant and the victim are belonging to the same village; that on 02.10.2024 at about 1.30 p.m., when the victim came to her village, the accused came in a bike and offered to drop her at her house, which was refused by the victim; that thereafter, the appellant had hugged, fondled her breasts, pushed her down and attempted to commit rape.

3. The appellant had filed the bail application before the trial Court and the same was dismissed by the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thiruvannamalai by order dated 10.10.2024 in Crl.M.P.No.1526 of 2024.

4. The learned counsel for the appellant would submit that the appellant is in custody from 03.10.2024; that his further custody is not



necessary for the purpose of investigation; that the case against him is false; and that he would abide by any stringent condition imposed for grant of bail.

5. The learned Government Advocate (Crl.Side) appearing for the State/1st respondent per contra would submit that the accused/appellant had committed a serious offence; that the investigation is pending and hence, the appeal for grant of bail, may be dismissed.

6. The learned legal aid counsel appearing for the second respondent/victim reiterated the submissions made by the learned Government Advocate (Crl.Side) and opposed the grant of bail to the appellant.

7. Admittedly the appellant is in custody from 03.10.2024. The learned Government Advocate (Crl.Side) is unable to point out as to why the further custody of the appellant is required for the investigation. Therefore, considering the nature of the allegations and the period of incarceration, this Court is inclined to grant bail to the appellant on stringent conditions.

8. Accordingly, the appellant is ordered to be released on bail subject



to the following conditions:

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(i) The appellant shall stay at Villupuram and report before the Villupuram Town Police Station every day at 10.30a.m., until further orders.

(ii) 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, Special Court for Trial of Cases under SC/ST (POA) Act, Thiruvannamalai.

(iii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity;

(iv) The appellant/accused shall not commit any offences of similar nature;

(v) The appellant/accused shall not abscond either during investigation or trial;

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

(vii) On breach of any of the aforesaid conditions, the learned Judicial 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



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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, dated 10.10.2024 in Crl.M.P.No.1526 of 2024 passed by the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thiruvannamalai, is set aside and the Criminal Appeal is allowed.

14.11.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

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Note: Issue Order Copy today.



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SUNDER MOHAN, J.

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Copy to:

- 1.The Sessions Judge,
Special Court for Trial of Cases under SC/ST (POA) Act,
Thiruvannamalai
- 2.The Deputy Superintendent of Police,
Thellar Police Station,
Thiruvannamalai.
- 3.The Superintendent,
Central Prison, Vellore.
- 4.The Public Prosecutor,
High Court, Madras.

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