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Crl.A.No.1335 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.A.No.1335 of 2024

Prathap

...

Appellant

Vs.

1.State Rep. by
The Deputy Superintendent of Police,
Namakkal Police Station,
Namakkal District.

2. The Inspector of Police,
Namakkal Police Station,
Namakkal District.
(Cr.No.458 of 2024)

3.Thavashri

...

Respondents

Prayer: Criminal Appeal filed under Section 14(A) of SC and ST Act, 1989
praying to set aside the order dated 08.10.2024 made in Crl.M.P.No.147 of
2024 passed by the learned Special Court for Trial of Cases under SC/ST
(POA) Act, Namakkal and to allow the above the Criminal Appeal by
enlarging the appellant on bail.



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For Appellant : Mr.Sharath Chandran
For Respondents-1 & 2 : Mr.C.E.Pratap
Government Advocate(crl.side)
For 3rd Respondent : Mr.V.Perarasu

JUDGMENT

This Criminal Appeal has been filed to set aside the Order dated 08.10.2024 made in Crl.M.P.No.147 of 2024 passed by the Learned Special Court for Trial of Cases under SC/ST (POA) Act, Namakkal and to allow the above the Criminal Appeal by enlarging the appellant on bail.

2. It is the case of prosecution that the appellant who was working as a Professor has convinced the victim and entered into love with the victim and had forced intercourse with her several times and that thereafter there was a quarrel and the appellant is said to have abused her by insulting her caste. On the complaint given by the third respondent, FIR was registered against the appellant for the offences under Sections 493, 323, 355, 506(i), 376 (2)(f) of IPC and 3(1)(r), 3(1)(s), 3(2)(va) of SC&ST (POA) Act, 1989 and the appellant was arrested on 29.09.2024.



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3. The learned counsel for appellant would submit that the alleged occurrence took place in the year 2022 and that FIR is an after thought; that in any case, the custody of the appellant is not required for further investigation; hence prayed for setting aside the order of the trial court and for grant of bail to the appellant.

4. Though the third respondent was served and her name is printed in the cause list, none entered appearance and therefore this Court appointed Mr.V.Perarasu as legal-aid counsel to assist this Court, on behalf of the third respondent.

5. The learned counsel appearing for the third respondent would submit that the allegations in the FIR would make out an offence with SC/ST Act and the offence under Section 376(2)(f) and therefore, the appellant is not entitled to bail.



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6. The learned Government Advocate (crl.side), per contra, submitted that the investigation is in progress and that the respondents are yet to file the final report.

7. Considering the fact that the alleged occurrence took place in the year 2002 ; that the nature of allegations suggest that there is force in the submissions made by the learned counsel that the relationship was consensual; that the appellant is in custody from 29.09.2024 and further custody is not required for investigation, 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), with two sureties each for a like sum to the satisfaction of the learned Special Court for Trail of Cases under SC/ST (POA) Act, Namakkal ;

(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;



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(iii)the appellant shall appear before the investigation officer, once in a week, until further orders.

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

(v)the appellant shall not abscond either during 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.



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8. Accordingly, this Criminal Appeal is allowed setting aside the order dated 08.10.2024 made in Crl.M.P.No.147 of 2024 by the learned Special Court for Trail of Cases under SC/ST (POA) Act, Namakkal.

22.11.2024

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

Note : Issue order copy by 25.11.2024
Upload the order copy forthwith.

To

1.The Deputy Superintendent of Police,
Namakkal Police Station,

2. The Inspector of Police,
Namakkal Police Station,
Namakkal District.

3.The Special Court for Trail of Cases
under SC/ST (POA) Act,
Namakkal.

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

5.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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