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Crl.A.No.1442 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.A.No.1442 of 2024

Masilamani

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Appellant /Accused

Vs.

1.The Deputy Superintendent of Police
Thiruvannamalai,
Thiruvannamalai District.

2.State rep.by the Inspector of Police,
Vettavalam Police Station,
Vettavalam, Tiruvannamalai District,
(Crime No.400 of 2016.

3. G.Ravi

...

Respondents

Prayer: Criminal Appeal filed under Section 14-A(2) of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989, praying to set aside the order passed by the learned Special Court for the Exclusive Trial of SC/ST Cases, Thiruvannamalai, Thiruvannamalai District in Crl.MP No.1652 of 2024 dated 06.11.2024 and enlarge the appellant on bail in Crime No.400 of 2016 on the file of Inspector of Police, Vettavalam Police Station, Vettavalam, Tiruvannamalai District, pending trial.



Crl.A.No.1442 of 2024

For Appellant : Mr.M.Vignesh Babu

For Respondents 1 & 2 : Dr.C.E.Pratap,
Govt. Advocate (Crl.side)

For 3rd Respondent : Ms.S.Sridevi, legal-aid counsel

J U D G M E N T

This Criminal Appeal has been filed challenging the dismissal of the bail application filed under Section 483(1)(a) of Bharatiya Nagarik Suraksha Sanhita, 2023 for the offences punishable under Section 294(b), 355, 506(i) IPC r/w 3(1)(r) of SC/ST (POA) Act 2015 made in Crl.MP No.1652 of 2024 dated 06.11.2024 by the Special Court for the Exclusive Trial of SC/ST Cases, Thiruvannamalai, Thiruvannamalai District and enlarge the appellant on bail in Crime No.400 of 2016 on the file of the 2nd respondent police.

2. The allegation against the appellant is that he had abused the victim in filthy language besides humiliating her due to her caste and had assaulted her with slippers.



Crl.A.No.1442 of 2024

WEB COPY

3. The appellant was initially granted bail and thereafter for his non-appearance, NBW was issued on 31.08.2023 and pursuant to the warrant, he was arrested once again on 20.09.2024 and he is in custody ever since then.

4. The learned counsel for appellant would submit that the offences are minor in nature; that for the non-appearance of the appellant, NBW was issued on 31.08.2023; that the appellant is in custody from 20.09.2024; that he would not abscond and that any stringent condition may be imposed by this court for grant of bail.

5. The learned Government Advocate (crl.side) per contra, would submit that the case is pending for nearly five years; that the petitioner's absence delayed the trial and hence the petition for bail may be dismissed.

6. Though the third respondent/defacto complainant has been served through second respondent, none entered appearance. Hence, this Court, by



order dated 02.12.2024, appointed Ms.S.Sridevi as legal-aid counsel to represent the third respondent.

7. The learned counsel appearing for the 3rd respondent would submit that the victim was insulted on account of her caste; that considering the seriousness of the offence and the fact that the appellant was absconding for a period of nine months, the appellant may not be released on bail and prayed for dismissal of the appeal.

8. It is seen from the records that Non-Bailable Warrant was issued against the appellant in January 2024 and thereafter, he was secured on 20.09.2024 and is now in custody since then. It is now reported that the charges have been framed as against the appellant. Considering the stage of the case; and the fact that the appellant is in custody from 20.09.2024 and the nature of the offence, 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



WEB COPY



Crl.A.No.1442 of 2024

the Exclusive Trial of SC/ST Cases, Thiruvannamalai,
Thiruvannamalai District ;

(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 shall appear before the respondent police, once in a week, until further orders.

(iv)the respondent police is directed to ensure that there is no threat to the life and safety of the de-facto complainant. In the event of any threat, appropriate steps to be taken.

(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;



Crl.A.No.1442 of 2024

(viii) on breach of any of the aforesaid conditions, the learned Sessions Judge/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 Sessions Judge/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.

9. Accordingly, this **Criminal Appeal is allowed** setting aside the impugned order passed by the learned Special Court for the Exclusive Trial of SC/ST Cases, Thiruvannamalai, Thiruvannamalai District in Crl.MP No.1652 of 2024 dated 06.11.2024.

09.12.2024

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

Note : Issue order copy by 11.12.2024
Upload the order copy forthwith.

Note : The District Legal Services Authority is directed to pay the scheduled fees to Ms.S.Sridevi, legal-aid counsel appointed by this Court, to assist this Court on behalf of the third respondent/defacto complainant.



WEB COPY



Crl.A.No.1442 of 2024

To

1.The Special Court for the Exclusive
Trial of SC/ST Cases,
Thiruvannamalai,
Thiruvannamalai District

2.The Deputy Superintendent of Police
Thiruvannamalai,
Thiruvannamalai District.

3.State rep.by the Inspector of Police,
Vettavalam Police Station,
Vettavalam, Tiruvannamalai District,

4.The Superintendent,
Central Prison,
Vellore.

5.The Public Prosecutor,
High Court, Madras.



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Crl.A.No.1442 of 2024

SUNDER MOHAN, J.

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Crl.A.No.1442 of 2024

09.12.2024