



Crl.A.Nos.1544 & 1545 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.A.Nos.1544 & 1545 of 2024

Sivakumar ... Appellant in Crl.A.No.1544/2024

Sivasakthi ... Appellant in Crl.A.No.1545/2024

Vs.

State Rep. by its

1.The Deputy Superintendent of Police,
Thiruchendur Sub Division,
Perambalur District.

2.The Inspector of Police,
Kunnam Police Station,
Perambalur District.
(Crime No.533 of 2024)

3. Thiruvvasagi ... Respondents in both Crl.As.

Common Prayer: Criminal Appeals filed under Section 14-A(2) of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989, praying to call for the records in Crl.M.P.Nos.80 & 82 of 2024, respectively, dated 29.11.2024 on the file of learned Special Court for Trial of Cases under the SC & ST (POA) Act, Perambalur and set aside the same and



Crl.A.Nos.1544 & 1545 of 2024

enlarge the appellants on bail in Crime No.533 of 2024 on the file of the Inspector of Police, Kunnam Police Station, Perambalur District.

In both Criminal Appeals

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

For 3rd Respondent : Mr.R.Nalliyappan

COMMON JUDGMENT

These Criminal Appeals have 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 Sections 296(b), 351(2) of BNS r/w 3(1)(r), 3(1)(s) of SC/ST (POA) Act, 1989 made in Crl.M.P.Nos.80 & 82 of 2024 dated 29.11.2024 by the Special Court for the Trial of Cases under SC & ST (POA) Act, Perambalur District and enlarge the appellants on bail in Crime No.533 of 2024 on the file of the 2nd respondent police.

2. It is the case of the prosecution that due to a prior property dispute, the appellants had abused the de-facto complainant, who is a pregnant lady,



in filthy language and also threatened her to dire consequences and humiliated her caste and thus committed the offence under Sections 296(b), 351(2) of BNS r/w 3(1)(r), 3(1)(s) of SC/ST (POA) Act.

3. The appellant/A2 in Crl.A.No.1544 of 2024 was arrested on 12.11.2024 and the appellant/A1 in Crl.A.No.1545 of 2024 was arrested on 05.11.2024 and they are in custody since then. The appellants sought for bail before the learned Special Judge and the same was dismissed on 29.11.2024 on the ground that the prosecution had objected to the grant of bail and the investigation is in progress and the other accused are yet to be arrested.

4. The learned counsel for appellants would submit that the appellants are in custody for more than a month; that further custody is not required for investigation and that the appellants are ready to abide by any stringent condition that may be imposed by this Court and hence, prayed for grant of bail.



WEB COPY

5.The learned counsel for the third respondent would submit that the victim/de-facto complainant is a pregnant lady and the appellants had committed grave offences and that if they are released on bail, they would harass the de-facto complainant further and hence, prayed for dismissal of the appeals.

6.The learned Government Advocate (Crl.side), on instructions, submitted that the investigation is pending and the investigation so far revealed that the complaint against the appellants is true and hence the appeals may be dismissed.

7.It is seen from the records that the appellant/A2 in Crl.A.No.1544 of 2024 was arrested on 12.11.2024 and the appellant/A1 in Crl.A.No.1545 of 2024 was arrested on 05.11.2024 and they are in custody since then. The learned Government Advocate was unable to point out as to why the further detention is required for the purpose of investigation. The only



apprehension expressed by the learned counsel for third respondent is that the appellants would harass the victim further. It is needless to say, if the appellants commit similar offences, it is always open to the third respondent to take appropriate action.

8.This court is of the view since further detention of the appellants is not required for the purpose of investigation, the appellants can be released on bail on the following conditions :

(i) The appellants/A1 & A2 shall execute a bond each 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 Trial of Cases under SC & ST (POA) Act, Perambalur 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 appellants 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 appellants shall not commit any offences of similar nature;

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

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

(viii)on breach of any of the aforesaid conditions, the learned Sessions Judge/Trial Court is entitled to take appropriate action against the appellants in accordance with law as if the conditions have been imposed and the appellants 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.



Crl.A.Nos.1544 & 1545 of 2024

9. Accordingly, these **Criminal Appeals are allowed** setting aside the impugned order passed by the learned Special Court for Trial of Cases under SC & ST (POA) Act, Perambalur District in Crl.M.P.Nos.80 & 82 of 2024, respectively, dated 29.11.2024.

18.12.2024

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

Note : Issue order copy by 19.12.2024
Upload the order copy forthwith.

To

- 1.The Sessions Judge,
Special Court for Trial of Cases under SC & ST (POA) Act,
Perambalur District.
- 2.The Deputy Superintendent of Police,
Thiruchendur Sub Division,
Perambalur District.
- 3.The Inspector of Police,
Kunnam Police Station,
Perambalur District.



WEB COPY



Crl.A.Nos.1544 & 1545 of 2024

SUNDER MOHAN, J.

rsi

4.The Superintendent,
Sub-Jail,
Perambalur.

5.The Superintendent,
Central Prison,
Trichy.

6.The Public Prosecutor,
High Court, Madras.

Crl.A.Nos.1544 & 1545 of 2024

18.12.2024