



Crl.A.No.1557 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.A.No.1557 of 2024

R. Vigneshwar

... Appellant

Vs.

1.The Assistant Commissioner of Police,
Poonamallee Range,
Avadi City,
Tiruvallur District.

2.The Inspector of Police,
All Women Police Station,
Crime No.18/2024,
Poonamallee,
Tiruvallur District.

3.M.Lavanya

... 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 dated 06.12.2024 made in Crl.M.P.No.7240 of 2024 on the file of the learned Principal District Sessions Judge, Tiruvallur and enlarge the appellant on bail in connection with the case in Crime No.18 of 2024 on the file of the 2nd respondent police by allowing this Criminal Appeal.



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

For 3rd Respondent : Mr.D.Ashok Kumar

JUDGMENT

This Criminal Appeal has been filed challenging the dismissal of the bail application filed by the appellant under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for the offences punishable under Sections 376(1), 376(2)(n), 417 of I.P.C. r/w 3(1)(w)(i), 3(1)(w)(ii), 3(1)(r), 3(1)(s), 3(1)(zc) of SC/ST (POA) Act, 1989 made in Crl.M.P.No.7240 of 2024 dated 06.12.2024 by the Principal District and Sessions Judge, Tiruvallur and enlarge the appellant on bail in Crime No.18 of 2024 on the file of the 2nd respondent police.

2. The allegation against the appellant is that the appellant and the de-facto complainant had a love affair from their school days and continued their relationship during college; that till May, 2024, the appellant and the de-facto complainant had sexual relationship on the false promise of marriage by the appellant; that the appellant thereafter refused to marry the



de-facto complainant; that when the de-facto complainant approached the appellant, his parents and his brother abused her in filthy language and also humiliated her caste. The appellant filed a bail application, which was dismissed by the order dated 06.12.2024 on the ground that the offence is grave in nature and the petitioner is accused of offence under Section 376(1) of I.P.C.

3. The learned counsel for appellant would submit that even on the allegations, the relationship between the appellant and the de-facto complainant is for a very long period and even according to the de-facto complainant she had physical relationship without protest for a very long period and that therefore, the complaint alleging rape is not maintainable and in any case further custody of the appellant is not required for the purpose of investigation.

4. The learned counsel for the third respondent/de-facto complainant strongly opposed the bail and submitted that the appellant knowing fully well that he will not marry the de-facto complainant, had sexual intercourse



with the de-facto complainant and that the offence of Section 376 of I.P.C. is clearly made out; that the family members of the appellant humiliated the de-facto complainant; that the appellant had photographs and videographs of the de-facto complainant in compromising position and if the appellant is released on bail, he would hamper the investigation.

5.The learned Government Advocate (Crl.side) submitted that the investigation is pending and the mobile phone and laptop of the appellant has been seized and they have been sent for forensic examination.

6.It is clear from the complaint that the appellant and the de-facto complainant had love affair and had physical relationship for a very long period. In such circumstances, the question as to whether the consent was obtained on a false promise or was given voluntarily has to be adjudicated in the trial. The learned Government Advocate and the learned counsel for third respondent are unable to point out as to how the further custody of the appellant would help the investigation, except for stating that videographs and photographs are in possession of the appellant. The learned Government



Advocate, on instructions, would submit that all these videos and photographs have already been seized and have been sent for forensic examination.

7.In the light of the above facts, this court is of the view that further detention of the appellants is not required for the purpose of investigation.

Hence, the appellant can be released on bail on 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 Judicial Magistrate No.I, Poonamallee;

(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



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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;

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



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8. Accordingly, this **Criminal Appeal is allowed** setting aside the impugned order passed by the learned Principal District and Sessions Judge, Tiruvallur in Crl.M.P.No.7240 of 2024, dated 06.12.2024.

19.12.2024

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 Principal District and Sessions Judge,
Tiruvallur.
- 2.The Judicial Magistrate No.I,
Poonamallee.
- 3.The Assistant Commissioner of Police,
Poonamallee Range,
Avadi City,
Tiruvallur District.
- 4.The Inspector of Police,
All Women Police Station,
Poonamallee,
Tiruvallur District.



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SUNDER MOHAN, J.

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5.The Superintendent,
Central Prison,
Puzhal, Chennai.

6.The Public Prosecutor,
High Court, Madras.

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