



Crl.A.(MD).No.74 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.A.(MD).No.74 of 2024

Ramakrishnan

... Appellant

Vs.

1.The State Rep by
The Deputy Superintendent of Police,
Thiruppathur Sub-Division,
Sivagangai District.

2.The Inspector of Police,
AWPS-Thiruppathur Police Station,
Sivagangai District.
(Crime No.4 of 2023)

3.Kiruthika Pandiselvi

... Respondents

PRAYER : Criminal Appeal filed under Section 14 A (2) of SC/ST (Prevention of Atrocities) Act, 2015 as amended by Act 1 of 2016, to call for the records pertaining to the order passed in Crl.M.P.No.889 of 2023 on the file of the learned Sessions Judge, Principal Special Court for exclusive Trial of cases under the POCSO Act 2012, Sivagangai, dated 18.10.2023



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and set aside the same as illegal and enlarge the appellant on bail by allowing the appeal.

For Appellant : Mr.P.Alwin Balan

For Respondents : Mr.M.Muthumanikkam
Government Advocate (Crl.Side)
For R1 & R2

JUDGMENT

This Criminal Appeal has been filed to set aside the impugned order passed in Crl.M.P.No.889 of 2023 dated 18.10.2023, on the file of the learned Sessions Judge, Principal Special Court for exclusive trial of Cases under the POCSO Act, Sivagangai and enlarge the appellant on bail in connection with Crime No.4 of 2023, on the file of the second respondent police.

2.1. According to the prosecution, the appellant and the other accused were said to have committed the offences under Sections 5(1)(j)(iii) r/w Section 6 of the POCSO Act 2012 and Sections 3(2)(va) of SC/ST (Prevention of Atrocities) Act, 1989.



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2.2. According to the prosecution, the defacto complainant is residing in Ayyapatti Village and her husband is working in Dubai. They have two daughters, namely, Sarika Bavani aged about 18 years and Jaya Sree aged about 14 years and a son namely Nithis aged about 9 years. In the year 2021, the defacto complainant and her husband approached the appellant to resolve their family problems and in furtherance to that, the defacto complainant went to the house of the appellant situated at Managiri on 09.11.2021 at around 10.00 hours along with her two daughters. The appellant has asked the defacto complainant to stay outside and the appellant along with her two daughters went inside the room and came after two hours. Thereafter, the defacto complainant visited the appellant's house twice with her daughters. The defacto complainant was running a hotel at Thirumayam with the help of the appellant and had money dispute. She came to know that the appellant was arrested and remanded in another case. Thereafter on 21.04.2023, she was shocked to know that her elder daughter was affected by HIV. When the defacto complainant enquired her elder daughter, she told that the appellant undressed her and had intercourse. Similarly, her younger daughter was also affected by HIV. When the defacto



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complainant enquired her younger daughter, she also told that the appellant undressed her and had intercourse. Hence, the defacto complainant lodged a complaint before the second respondent police and a case in Crime No.4 of 2023 dated 06.06.2023 for the offences under Sections 5(l) r/w Section 6 of POCSO Act, 2012 and Sections 3(2)(v a) of SC/ST (Prevention of Atrocities) Act, 1989 was registered and arrested the appellant on 12.06.2023. Hence, the appellant filed a petition for bail in Cr.M.P.No.889 of 2023, before the learned Sessions Judge, Principal Special Court for exclusive Trial of Cases under the POCSO Act, 2012, Sivagangai, and the same was dismissed by order dated, 18.10.2023. Challenging the same, the appellant has preferred this Criminal appeal.

3. The learned counsel for the appellant would submit that the appellant is inside the jail from 12.06.2023 and he is suffering from multiple of health issues. He would further submit that the health condition is more serious and hence, he seeks for bail.



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4.The learned Government Advocate (Crl.Side) on the other side submitted that the health condition can not be a reason to grant bail. The allegation made against the appellant is serious and also a specific finding has been given by the learned trial Judge in paragraph No.5. The appellant is not entitled for bail. Hence, he seeks for dismissal of the bail petition.

5. This Court considered the rival submissions made by the learned counsel appearing for the appellant and the learned Government Advocate (Crl.Side) and perused the materials available on record.

6. The appellant is the Astrologist and he committed the offence under Sections 5(l) r/w Section 6 of POCSO Act, 2012 and Sections 3(2)(v a) of SC/ST (Prevention of Atrocities) Act, 1989. He committed aggravated penetrative sexual assault upon two victim girls. Apart from that, the further allegation is that he also transmitted HIV to the victim girls. In view of the above, serious allegations, this Court is not inclined to grant bail. Further, the trial was also already commenced and more than 7 witness were examined.



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7. Accordingly, this Criminal Appeal stands dismissed. The learned Sessions Judge, Principal Special Court for exclusive trial of Cases under the POCSO Act, Sivagangai is directed to complete the trial within a period of two months from the date of receipt of a copy of this order.

04.04.2024

NCC :Yes/No

Index :Yes/No

Internet :Yes/No

sbm



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- 1.The Special Court for Trial of Cases
Registered under SC/ST (PoA) Act 1989, Thoothukudi.
- 2.The Deputy Superintendent of Police,
Thiruppathur Sub-Division,
Sivagangai District.
- 3.The Inspector of Police,
AWPS-Thiruppathur Police Station,
Sivagangai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

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