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Crl.A.No.219 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2025

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Appeal No.219 of 2025

Ashok

... Appellant

..VS..

State represented by
The Inspector of Police,
All Women Police Station,
Tiruvannamalai,
Crime No.13 of 2023.

... Respondent

Criminal Appeal filed under Sections 14 A (2) of SC/ST Act, 1989, to set aside the order passed by the learned Sessions Judge, Special Court for Exclusive of Trial Cases under POCSO Act, Tiruvannamalai in Crl.M.P.No.47 of 2025 dated 24.01.2025 and enlarge the appellant on bail in connection with the Spl.S.C.No.17 of 2024 on the file of the Sessions Judge, Special Court for Exclusive of Trial Cases under POCSO Act, Tiruvannamalai.



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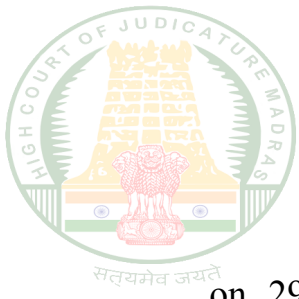
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For Appellant : Mr.V.Santhosh
For Respondent : Ms.G.V.Kasthuri
Additional Public Prosecutor

J U D G M E N T

This Criminal Appeal has been filed seeking to set aside the order dated 24.01.2025 made in Crl.M.P.No.47 of 2025 by the learned Sessions Judge, Special Court for Exclusive of Trial Cases under POCSO Act, Tiruvannamalai, and to enlarge the appellant on bail in connection with Spl.S.C.No.17 of 2024.

2. The case of the prosecution is that on 28.08.2023, the *de-facto* complainant, who is working as a painter took his children to his work site and while his children were playing in the ground floor, the accused allegedly abused his female child and hence, the case in Crime No.13 of 2023 was registered against the appellant herein/accused for the offences under Sections 354(A)(1)(i) of IPC and Sections 7 r/w 8, 9(m) r/w 10 of POCSO Act, 2012 and he was arrested and remanded to judicial custody



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on 29.08.2023. Later he was released on bail. After completion of investigation, final report was filed in Spl.S.C.No.17 of 2024 before the Special Court for Exclusive of Trial Cases under POCSO Act, Tiruvannamalai for the offences under Sections 366, 376AB and 511 IPC and Section 9(m), 10, 6(1) and 18 of POCSO Act, 2012 and Sections 3(1)(w)(i) of SC/ST (POA) Amendment Act, 2015 against the appellant.

3. Learned counsel for the appellant submitted that the appellant is an innocent person and he has been falsely implicated in this case. He further submitted that during trial the appellant was regularly appearing before the Court below, but only for one hearing, due to mishearing of the next hearing date, he has not appeared. Hence, the learned Magistrate issued non-bailable warrant and the appellant was arrested and remanded to judicial custody on 06.06.2024. The appellant is in judicial custody for more than 230 days and hence, seeks for grant of bail. It is submitted that if the appellant is not enlarged on bail, he will put into great loss and hardship.



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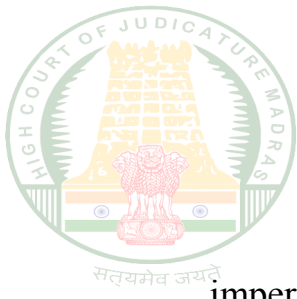
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4. Learned Additional Public Prosecutor appearing for the respondent-Police submitted that the offences committed by the appellant would attract POCSO Act and SC/ST (POA) Act. She further submitted that in this case, the trial has commenced and out of 19 witnesses, 6 witnesses have already been examined. Pending trial, the appellant absconded and due to non appearance of the appellant, the proceedings have been stalled and hence, the Court below issued non-bailable warrant, later he was arrested and remanded to judicial custody. If the appellant is enlarged on bail, there is a possibility of tampering of evidence and the trial of the case will be delayed. Hence, she strongly objects to grant bail to the appellant.

5. Heard the learned counsel for the appellant and the learned Additional Public Prosecutor appearing for the respondent and also perused the materials available on record.

6. It is needless to state as per Section 346 BNSS 2023, it is

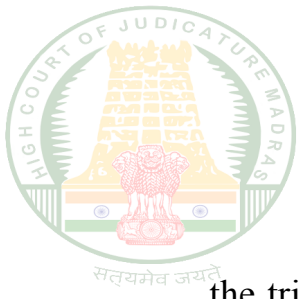


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imperative that once the trial has commenced, the same has to be conducted and completed on a day-to-day basis, except some inadvertent circumstances and also if the examination-in-chief is over, the cross-examination should be completed on the same day itself. In the instant case, due to non-appearance of the appellant, the proceedings in Spl.S.C.No.17 of 2024 was stalled and after issuing non-bailable warrant, the appellant was arrested and remanded to judicial custody and hence, the Court below dismissed the petition in Crl.M.P.No.47 of 2025 seeking bail.

7. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel on either side, this Court is of the view that the offences committed by the appellant is serious in nature and there is a specific overtact as against the appellant and if the appellant is enlarged on bail, there is a possibility of tampering the evidence and protraction of trial. Hence, this is not a fit case to grant bail to the appellant. However, the trial Court is directed to proceed with



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the trial and complete the trial on a day-to-day basis and dispose of the case on merits and in accordance with law within a period of two months from the date of receipt of a copy of this order.

8. With the above directions, this Criminal Appeal is dismissed.

03.03.2025

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
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To

1. The Session Judge,
Special Court for Exclusive of Trial Cases under POCSO Act,
Tiruvannamalai.
2. The Superintendent of Prison,
Central Prison, Vellore.
3. The Public Prosecutor,
High Court, Madras.
4. The Inspector of Police,
All Women Police Station,
Tiruvannamalai.

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P.VELMURUGAN, J.

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