



Crl.A.No.1445 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

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M.Uthirakumar

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Appellant /Accused

Vs.

1.The Superintendent of Police,
District Police Office,
Vengikkal, Thiruvannamalai District.

2. The State represented by
The Inspector of Police,
All Women Police Station,
Thiruvannamalai District.

3. M.Deepa

...

Respondents

Prayer: Criminal Appeal filed under Section 14-A(2) of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989, to set aside the order passed by the learned Special Court for the Exclusive Trial of POCSO Act, 2012, Thiruvannamalai District in Crl.MP.No.1229 of 2024 dated 10.09.2024 in Spl.SC.No.43 of 2023 and enlarge the appellant/accused on bail.

For Appellant : Mr.E.Thiyaga

For R1 & R2 : Mr.C.E.Pratap,
Government Advocate (Crl.Side)



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For R3 : M/s.S.Sridevi, Legal-aid counsel

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J U D G M E N T

This Criminal Appeal has been filed challenging the dismissal of the bail application filed under Section 14-A(2) of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989 made in Crl.MP. No. 1229 of 2024 dated 10.09.2024 by the learned Special Court for the Exclusive Trial of POCSO Act, 2012, Thiruvannamalai District and enlarge the appellant on bail.

2. The appeal challenges the dismissal of the appellant's bail application filed before the Trial Court.

3. The appellant is facing trial for offences under Sections 294(b), 323, 376(AB), 506(ii), 376(2)(n) of IPC, Sections 5(l), 5(m) read with Section 6 of the POCSO Act, 2012, and Sections 3(1)(w)(1), 3(2)(va) of the SC/ST (POA) Amendment Act, 2015. During the course of investigation, the appellant was arrested on 18.02.2023 and subsequently released on bail on 29.06.2023. After the filing of the final report, due to the non-appearance of the appellant, a non-bailable warrant was issued on 04.08.2023, and the



appellant has been in custody from 14.06.2024. The appellant sought bail before the trial court, which was dismissed on the ground that, if he is released on bail, he would not co-operate with the trial.

4. The learned counsel for the appellant would submit that the appellant is in custody from 14.06.2024, which is sufficient punishment for his non-appearance; that the prosecution has examined P.W-1 to P.W-3, including the victim; and that to ensure his presence in the trial, the appellant is willing to abide by any stringent conditions.

5. Though notice has been served to the third respondent/ defacto complainant, no one entered appearance on behalf of the third respondent/ defacto complainant. Therefore, this court has appointed Ms.S.Sridevi as the legal-aid counsel to assist this court in the appeal on behalf of the third respondent/ defacto complainant.

6. M/s. Sridevi, learned legal-aid counsel, submitted that the trial was delayed for nearly ten months due to the non-appearance of the appellant,



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and considering the nature of the offence and the age of the victim, no indulgence should be shown to the appellant and prayed for dismissal of the appeal.

7. The learned Government Advocate (Crl.Side) also submitted that the appellant has not made out any ground for grant of bail.

8. Heard the learned counsel for the appellant as well as the third respondent/ defacto complainant and the learned Government Advocate (crl.side) appearing for the first and second respondents and perused the records.

9. This court is of the considered view that, for the non-appearance of the appellant and for causing delay in the trial, the appellant has suffered imprisonment from 14.06.2024 till date. Three witnesses including the victim, have already been examined by the trial court. In such circumstances, the appellant is entitled to defend himself effectively before the trial court. In view of the same, this Court is inclined to grant bail to the



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appellant subject to the following conditions:

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(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 the Exclusive Trial of POCSO Act, 2012, Thiruvannamalai District;

(ii)the sureties shall affix their photographs and Left Thumb Impressions 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;



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(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 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.

10. Accordingly, this **Criminal Appeal is allowed** setting aside the impugned order dated 10.09.2024 made in Crl.MP.No.1229 of 2024 by the Special Court for the Exclusive Trial of POCSO Act, 2012, Thiruvannamalai District.



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Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

Internet: Yes/No

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Note : Issue order copy by 07.01.2025.

Upload the order copy forthwith.

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



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1. The Superintendent of Police,
District Police Office,
Vengikkal, Thiruvannamalai District.
2. The State represented by
The Inspector of Police,
All Women Police Station,
Thiruvannamalai District.
3. Learned Special Court for the Exclusive Trial of POCSO Act, 2012,
Thiruvannamalai District.
4. The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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