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Crl.A.No.6 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.A.No.6 of 2025

Lavanya

... Petitioner

Vs.

1.The Deputy Superintendent of Police
Mangadu Police Station
Kancheepuram District

2.State Rep. by the Inspector of Police
T-14, Mangadu Police Station
Kancheepuram District
(Crime No.483 of 2023)

3.P.Selvaprakasam

... Respondents

PRAYER: Criminal Appeal is filed under Section 14(A)(2) of SC/ST Act 1989, to set aside the order passed by the learned Sessions Judge, Special Court for the Exclusive Trial of cases under POCSO Act, Chengalpattu, Chengalpattu District in Crl.M.P.No.89 of 2024 dated 26.04.2024 and enlarge the appellant on bail in Crime No.483 of 2023 on the file of Inspector of Police, T-14, Mangadu Police Station, Kancheepuram District.



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For Petitioner : Mr.G.Vinodhkumar

For Respondent : Dr.C.E.Pratap
Government Advocate (Crl.Side)

ORDER

This Criminal Appeal challenges the dismissal of the appellant's bail application filed U/s.437 & 439 Cr.P.C.

2.The allegation against the appellant is that she had illicit intimacy with one Manikandan, and in conspiracy with the said Manikandan, she had sexually assaulted her child who was aged 2 1/2 years, born through her first husband and caused murder.

3.The appellant has filed a petition before the trial Court seeking bail. However, the said bail petition was dismissed on the ground that the appellant had suppressed the dismissal of bail petition filed before this Court on 28.07.2023, and that the appellant is likely to tamper the witnesses and hamper the investigation.



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4.Learned counsel for the appellant would submit that the 2nd respondent has filed a final report and since the appellant is in custody from 18.06.2023, her further detention is not required for the purpose of the case. He added that the co-accused was granted bail by this Court vide order of this Court dated 20.11.2024 and since the appellant has to effectively defend herself in the trial, the appellant may be released on bail.

5.Dr.C.E.Pratap, the learned Government Advocate (Crl. Side) on instructions would submit that the final report has been filed and the charges have also been framed.

6.Though notice has been served on the 3rd respondent, none entered appearance. Therefore, this Court appointed Mr.Gowtham as legal aid counsel for the 3rd respondent.

7.Learned counsel for the 3rd respondent would oppose the grant of bail stating that it is a heinous crime and that the victim child was subjected to sexual assault before he was murdered and considering the gravity of the



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offence, the bail petition may be rejected.

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8. Heard the learned counsel for the appellant as well as the 3rd respondent and also the Government Advocate (Crl. Side) appearing for the respondents 1 and 2.

9. Admittedly, the co-accused in this case Manikandan was released on bail vide order of this Court dated 20.11.2024 in Crl.A.No.1287 of 2024.

10. On parity, the appellant is also entitled to the grant of bail. Hence, considering the period of incarceration and since the appellant has to defend her case effectively, this Court is inclined to grant bail to the appellant.

11. Accordingly, the appellant is ordered to be released on bail subject to the following conditions :

(i) The appellant shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only), with two sureties each for a like sum to the satisfaction of the learned Special Judge, Exclusive Trial of POCSO Court, Chengalpet ;



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(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 / accused shall appear before the concerned Trial Court on every Monday at 10.00 a.m., until further orders and shall appear before the trial court on all hearing dates without fail;

(iv) the appellant shall not commit any offences of similar nature;

(v) the appellant shall not abscond either during investigation or trial;

(vi) the appellant shall not tamper with evidence or witness either during investigation or trial;

(vii) on breach of any of the aforesaid conditions, the learned Trial Judge 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



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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]*;

(viii) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

12. In view of the above, the impugned order dated 24.06.2024 made in Crl.M.P.No.89 of 2024 passed by the learned Sessions Judge, Special Court for Exclusive trial of cases under POCSO Act, Chengalpattu, is set aside and the Criminal Appeal is allowed. The Legal Service Authority shall pay the fixed fee to Mr.Gowtham, the legal aid counsel.

22.01.2025

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Index : Yes / No
Neutral Citation

Note: Issue Order copy by 23.01.2025



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To

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1.The Deputy Superintendent of Police
Mangadu Police Station
Kancheepuram District

2The Inspector of Police
T-14, Mangadu Police Station
Kancheepuram District
(Crime No.483 of 2023)

3.The Sessions Judge
Special Court for the Exclusive Trial
of cases under POCSO Act
Chengalpattu
Chengalpattu District

4.The Superintendent of Police
Special Prison for Women
Puzhal, Chennai

5.The Public Prosecutor,
High Court, Madras.



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SUNDAR MOHAN, J.

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