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Crl.A.No.1672 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.A.No.1672 of 2024

G.Suresh Kumar ... Appellant/A3

Vs.

1.The Deputy Superintendent of Police,
Dharapuram Sub-Division,
Tiruppur District.

2. The State rep. by,
The Inspector of Police,
All Women Police Station,
Dharapuram, Tiruppur District.
(Cr.No.22 of 2024). ... Respondents 1 & 2 /Complainant

3. S.Kathirvel
Co-ordinator of Children Help Centre-1098,
Room No.627, 6th Floor,
District Collectorate, Palladam Road,
Tiruppur District. ... 3rd respondent/Defacto complainant

4. xxx

5. xxx

6. xxx

7. xxx ... Respondents 4 to 7/Victims



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PRAYER: Criminal Appeal filed under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes, 1989, to set aside the order passed by the learned Sessions Judge, Fast Track Mahila court, Tiruppur in Crl.M.P.No.893 of 2024 dated 18.12.2024 and enlarge the appellant on bail in Cr.No.22 of 2024 on the file of the 1st respondent police.

For Appellant : Mr.R.John Sathyan, Sr. Counsel
for Mr.Swamisubramanian

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

Ms.A.Vinu Pradha
Legal Aid Counsel

JUDGMENT

This appeal has been filed challenging the dismissal of the bail application filed by the appellant.

2. A case was registered against the appellant/A3 and other accused for the offences under Sections 7, 8, 9(f), 10, 11(1), 11(3) r/w 12 of the POCSO Act, 2012 r/w Section 296(b), 115(2), 351(2) of BNS 2023 @ into Section 7 r/w 8, 9(f) r/w 10, 11(1), 11(3) r/w 12 of the POCSO Act, 2012 and Section 296(b), 115(2), 351(1) of BNS, 2023 and Section 3(2)(va) of



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the SC/ST (POA) Act, 1989 in Cr.No.22 of 2024 on the file of the 2nd respondent police.

3. The allegation in the FIR is that the victims/respondents 4 to 7 are students staying in the hostel, attached to a school; that A1, who is the Warden in the said hostel, had shown porn movies to the students and compelled them to do certain acts, which amounts to offences under the POCSO Act; that the students complained about the conduct of A1 to A2, who was the Head Warden of the hostel, who intturn informed the appellant/A3, who was the Correspondent of the School; that the appellant/A3 had promised the students that he would take action; that before the appellant/A3 could take action, the students made a complaint to the Child Help Line; and that the appellant/A3 was upset with the said act of the students and had slapped the students/victims.

4. The appellant/A3 was arrested on 13.11.2024 and was remanded to judicial custody on the same day. The appellant/A3 filed a bail application



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before the learned Sessions Judge, Mahalir Neethimandram, (FTMC),
Tiruppur in ECMP No.893 of 2024 and the same was dismissed on
18.12.2024, on the ground that the investigation is yet to be completed.

5. Though the notice sent to the 3rd respondent and the victims were served, none had entered appearance. Hence, this Court appointed Ms.A.Vinu Pradha, as legal aid counsel.

6. Heard Mr.R.John Sathyan, learned senior counsel appearing for the appellant, Dr.C.E.Pratap, learned Government Advocate (Crl.Side) appearing for the State/respondents 1 and 2 and Ms.A.Vinu Pradha, learned counsel.

7. The learned senior counsel appearing for the appellant would submit that there is no allegation that the appellant/A3 had abetted any of the acts alleged to have been committed by A1; that the appellant/A3 is in custody for more than 55 days and is an heart patient and was in the hospital



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for major period of his custody; and that since his further custody is not required for the purpose of investigation, he may be released on bail.

8. Ms.A.Vinu Pradha, learned counsel submitted that since the appellant/A3 is the Correspondent of the School, the victims may not depose against him, if he is released on bail and there is no possibility of a fair trial and hence, sought for dismissal of the appeal

9. Dr.C.E.Pratap, the learned Government Advocate (Crl.Side) appearing for the State/respondents 1 and 2, would submit that the investigation is almost completed and the final report would be filed at the earliest.

10. Considered the rival submissions and perused the materials available on record.

11. Admittedly, the appellant/A3 is not involved in the alleged offence said to have been committed by A1. The only allegation against the



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appellant is that the appellant had slapped the victims, since he was upset with the fact that the victims approached the Child Help Line, before he could take action against A1. The appellant/A3, admittedly was in the hospital during the major part of his custody.



12. Therefore, considering the nature of allegations, the stage of investigation and the fact that custody of the appellant/A3 is not required for the purpose of further investigation, this Court is of the view that the appellant can be enlarged on bail, on conditions.

13. Accordingly, the appellant/A3 is ordered to be released on bail subject to 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 Sessions Judge, Mahalir Neethimandram (FTMC), Tiruppur;

(ii) The appellant and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity;

(iii) the appellant shall appear before the 2nd respondent police on every Monday and Thursday, at 10.30 a.m., until further orders;

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

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



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(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 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]*; and

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

14. In view of the above, the impugned order, dated 18.12.2024 in Crl.M.P.No.893 of 2024 passed by the learned Sessions Judge, Fast Track Mahila Court, Tiruppur, is set aside and the Criminal Appeal is allowed.

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Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

Note : The High Court Legal Services Committee is directed to pay the scheduled fees to Mrs.A.Vinu Pradha, legal-aid counsel appointed by this Court, to assist this Court on behalf of the 3rd respondent/defacto



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complainant.

Issue Order Copy today.
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SUNDER MOHAN, J.

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Copy to:

- 1.The Sessions Judge,
Mahalir Neethimandram (FTMC),
Tiruppur.
- 2 The Deputy Superintendent of Police,
Dharapuram Sub-Division,
Tiruppur District.
3. The Inspector of Police,
All Women Police Station,
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4. S.Kathirvel
Co-ordinator of Children Help Centre-1098,
Room No.627, 6th Floor,
District Collectorate, Palladam Road,
Tiruppur District.
- 5.The Superintendent,
Central Prison, Coimbatore.
- 6.The Public Prosecutor,
High Court, Madras.

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