

Rajini vs State Rep. By on 10 January, 2025

Crl

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.A.No.1592 of 2024

Rajini

... Appe

Vs.

1.State Rep. by
The Deputy Superintendent of Police,
Tirupattur,
Tirupattur District.

2.The Sub Inspector of Police,
Tirupattur Taluk Police Station,
Tirupattur District.

3.Ponnusami

... Resp

PRAYER: Criminal Appeal filed under Section 14(A)(2) of Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989, to set aside the order passed by the learned Sessions Division of Tirupattur District in Crl.M.P.No.1248/2024 dated 26.11.2024 and enlarge the appellant on bail in Crime No.604/2024 pending on the file of Inspector of Police, Tirupattur Taluk Police Station, Tirupattur District.

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|---------------|---|---|
| For Appellant | : | Mr.E.Kannadasan |
| For R1 & R2 | : | Dr.C.E.Pratap, Government Advocate (Crl) |
| For R3 | : | Ms.A.Vinupradha, Legal Aid Counsel |

JUDGMENT

This Criminal Appeal has been filed challenging the dismissal of the bail petition in Crl.M.P.No.1248 of 2024 filed by the appellant who is alleged to be involved in Crime No.604 of 2024 for offence under Sections 5(1), 6 of Protection of Children from Sexual Offences Act, 2012 and Section 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2.The case of the prosecution is that the appellant and the victim, aged about 15 years, had love affair; that on 07.09.2024, the victim had gone to the appellant's sister house; that on 10.09.2024 the appellant had sexual intercourse with the victim; that on the complaint of the father of the victim, the girl was secured and the appellant was arrested on 05.11.2024.

The appellant had filed a bail application before the Trial court and the same was dismissed on the ground that the offence is grave in nature and the <https://www.mhc.tn.gov.in/judis> investigation was pending, and therefore the appellant is not entitled for bail.

3.The learned counsel for the appellant would submit that admittedly, it is a case of love affair; that the allegation as to whether the appellant had committed the offence of penetrative sexual assault has to be considered in the trial and considering the fact that the appellant's further custody is not required for the purpose of investigation, he may be granted bail on stringent conditions.

4.The learned counsel for the 3rd respondent/defacto complainant, however, would submit that that the appellant belongs to a different community and if he is released on bail, he is likely to tamper the witnesses and there is likely to be a disturbance to the law and order in the locality.

5.The learned Government Advocate (Crl. Side), on instructions, would submit that since the appellant and the victim belongs to two different communities, if the appellant is released on bail there is likely to <https://www.mhc.tn.gov.in/judis> be a commotion in the locality.

6.Admittedly, the appellant and the victim had a love affair for eight months prior to the occurrence. It is not in dispute that the victim had voluntarily gone with the appellant. The question as to whether the appellant had committed the penetrative sexual assault has to be considered during trial. Except for stating that the release of the appellant would lead to commotion in the locality, there is no reason to justify the further detention of the appellant in custody. Therefore, the custody of the appellant is not required for the purpose of investigation in the case.

7.This Court is of the view that the appellant can be released on bail and he may be directed to stay away from his normal place of residence for sometime.

8.Accordingly, the appellant is released on bail on 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 District and Sessions Judge, Tirupattur.

(ii)The appellant/accused shall stay at Tiruchirapalli and report before the Inspector of Police, Cantonment Police Station, Tiruchirapalli daily at 10.30 a.m until further orders.

(iii)The appellant/accused shall not commit any offences of similar nature.

(iv)The appellant/accused shall not abscond either during investigation or trial.

(v)The appellant/accused shall not tamper with evidence or witness either during investigation or trial.

(vi)on breach of any of the aforesaid conditions, the learned Judicial Magistrate/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 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].

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

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9.In view of the above, the impugned order, dated 26.11.2024 in Crl.M.P.No.1248 of 2024 passed by the learned District and Sessions Judge, Tirupattur is set aside and the Criminal Appeal is allowed.

10.01.2025 Index : Yes/No Speaking Order/Non Speaking Order Neutral Citation: Yes/No vv2 Note: Issue Order Copy on 10.01.2025.

To

1.The District and Sessions Judge, Tirupattur.

2.The Deputy Superintendent of Police, Tirupattur, Tirupattur District.

3.The Sub Inspector of Police, Tirupattur Taluk Police Station, Tirupattur District.

4.The Central Prison, Vellore.

5.The Public Prosecutor, High Court, Madras.

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