



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 13.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE A.M.BASHEER AHAMED

Crl.A.(MD)No.452 of 2017

WEB COPY

Moorthy ... Appellant/Petitioner/Accused No.1

Vs.

State rep by its
Deputy Superintendent of Police,
Aundipatti Sub Division,
Theni District.
(Crime No.774 of 2017)

... Respondent/Complainant

PRAYER: The Petition filed under Section 14-A(2) of SC / ST (POA) Act 1989 as amended by Act 1/2016, praying to call for the records relating to the order dated 03.11.2017 passed by the Principal Sessions Judge, Theni made in Cr.M.P.No.3584 of 2017 and set aside the same and consequently to release the appellant on bail in connection with case in Crime No.774 of 2017 on the file of the respondent police.

For Appellant	: Mr.S.Ramasamy
For Respondent	: Mr.T.Mohan,
	Additional Public Prosecutor

JUDGMENT

The appellant, who was arrested on 28.10.2017 for the offence punishable under Sections 294(b), 420 of IPC and Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act 2003 and Section 3(1) (r), 3(1) (s) of SC/ST (Prevention of Atrocities) Amendment Act 2015 in Crime No.774 of 2017 on the file of the respondent Police, seeks bail.

2.The case of the prosecution is that A1 was doing milk vendor business. The defacto complainant was working under A2 and for starting a new business, A2 borrowed a sum of Rs.5,20,000/- from A1 and the same was handed over to the de facto complainant. Thereafter, A2 has demanded the said amount from the defacto complainant and thereby, A1 is said to have abused him in filthy language by using the caste name of the defacto complainant. Hence, the appellant was arrested on 28.10.2017 and now he is in custody.

3.The learned Additional Public Prosecutor appearing for the respondent Police, on instruction, would submit that totally there are 2 accused in this case and the appellant herein is



arrayed as A1 in this case. A2 was directed to surrender before the Court below as per order of this Court, but, he has not yet surrendered and the investigation is still pending.

4. The learned counsel for the appellant submitted that A2 borrowed the said amount from the appellant / A1 and he never demanded exorbitant interest from the de facto complainant.

5. Considering the facts and circumstances of the case and also considering the fact that the appellant did not demand any amount from the de facto complainant in respect of the amount borrowed by A2 and the specific overt act attributed against the appellant and also the period of incarceration of the appellant in jail from 28.10.2017 onwards, this Court is inclined to grant bail. Accordingly, the Criminal appeal is allowed and the appellant is ordered to be enlarged on bail subject to the following conditions:-

[a] 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 Judicial Magistrate, Aundipatti.

[b] the appellant shall report before the respondent Police, daily at 10.30 a.m., until further orders.

[c] the appellant shall not tamper with evidence or witness either during investigation or trial.

[d] the appellant shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned 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].

Sd/-
Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

<https://hcservices.ecourts.gov.in/hcservices/>

1. The Principal Sessions Judge, Theni.



2.The Judicial Magistrate, Aundipatti.

3.The Deputy Superintendent of Police,
Aundipatti Sub Division,
Theni District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

5.The Superintendent, Sub Jail,
Periyakulam.

+1cc to Mr.S.RAMASAMY, Advocate, SR.86699

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13.11.2017

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