

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 17.09.2018
CORAM:
THE HON'BLE MR.JUSTICE M.DHANDAPANI
Crl.A.No.558 of 2018

Chellamuthu .. Appellant
Vs.

State rep. by
The Sub Inspector of Police
Vellakoil Police Station
Tiruppur District
Crime No.285/2018 .. Respondent

PRAYER:Criminal Appeal has been filed under Section 14A of the Scheduled Cast and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, against the dismissal of the bail order dated 28.08.2018 made in Crl.M.P.No.1398 of 2018 on the file of the learned I Additional Sessions Judge (Principal Sessions Judge □ Incharge), Tiruppur.

For Appellant : Mr.N.Manokaran
For Respondent : Ms.S.Thankira
Government Advocate

J U D G M E N T

The appellant / accused has been implicated in this case under Sections 355 IPC & Sections 3(1)(r), 3(1)(s), 3(2)(va) of the

Scheduled Caste and Schedule Tribes (Prevention of Atrocities) Amendment Act, 2015.

2.It is the case of the prosecution that the petitioner was granted bail on an earlier occasion, subsequently, he was enlarged on bail. After the enlargement, the appellant has failed to appear before the Trial Court on 01.08.2018, for which NBW was issued by the Sessions Court for his non-appearance and the same was recalled on 09.08.2018. Again on 16.08.2018, the appellant did not appear before the Sessions Court, again NBW was issued against the appellant. Based on the NBW issued by the Trial Court, the respondent police has secured the appellant on 24.08.2018. Therefore, the appellant filed bail application under Section 439 of Cr.P.C., the same was dismissed against which this present criminal appeal is preferred.

3.The learned counsel appearing for the appellant would submit that the appellant has not committed any offence as alleged by the prosecution. Due to his ill health, he could not appear before the Trial Court on 16.08.2018, hence, the law enforcing agency has arrested the appellant, which was neither wilful nor wanton. Accordingly, prays for bail.

4.The learned Government Advocate appearing for the State would submit that the Sessions Court has issued NBW for the second time due to the non appearance of the appellant. Hence, the law enforcing agency has secured the appellant as per the order of the Sessions Court.

5.Considering the circumstances and also the period of incarceration, I am inclined to set aside the order of the learned I Additional Sessions Judge (Principal Session Judge- Incharge), Tiruppur. Consequently, the appeal is allowed.

6.Accordingly, the appellant is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Principal Sessions Court, Tiruppur, and on further condition that:

(a)the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;
(b)the petitioner shall report daily before the learned Principal Sessions Court, Tiruppur at 10.30 a.m until further orders;

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(c)the petitioner shall not tamper with evidence or witness either during investigation or trial;
(d)the petitioner 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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]; and;
(f)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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