

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 23.10.2018****CORAM:****THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN****Crl.A.(MD)No.471 of 2018**

Moorthy @ Krishnamoorthy :Appellant/Petitioner/
Sole Accused

Vs.

1.State represented by
The Deputy Superintendent of Police,
Puliyankudi, Tirunelveli District.

2.State represented by
The Sub Inspector of Police,
Sivagiri Police Station,
Tirunelveli District.
(Crime No.344 of 2013)

3.Eshwaran :Respondent/Respondent/
Complainants & Defacto Complainant

PRAYER: Criminal Appeal filed under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, to call for the records relating to the order dated 08.10.2018 passed in Crl.M.P.No.3012 of 2018 in S.C.No.167 of 2015 on the file of the learned Family Court Judge, II Additional District & Sessions Judge (FAC), Tirunelveli and set aside the same and consequently, to release the appellant on bail in connection with the case in S.C.No.167 of 2015 on the file of the learned Family Court Judge, II Additional District & Sessions Judge (FAC), Tirunelveli.

For Appellant : Mr.K.Gokul
For R1 & R2 : Mr.A.Robinson
Government Advocate (Crl.side)

JUDGMENT

The Criminal Appeal is filed against the order dated 08.10.2018 passed in Crl.M.P.No. 3012 of 2018 by the learned Family Court Judge, II Additional District & Sessions Judge (FAC), Tirunelveli.

2.Heard the learned counsel appearing for the appellant and the learned Government Advocate (Crl.side) appearing for the respondent.

3.Records perused.



4. The petitioner herein is the sole accused in S.C.No. 167 of 2015 for the offence under Sections 294(b), 452, 506(ii) IPC r/w Section 3(1)(x) of SC/ST(POA) Act, 1989. The petitioner failed to attend the Court on the date of hearing and therefore, the trial Court had issued Non-Bailable Warrant on 31.05.2017. The petitioner was secured on 27.08.2018. Thereafter, two bail petitions have been filed on behalf of him and both of them were dismissed. The reasons stated by the trial Court for dismissal of the said bail petitions are that due to abscondence of the accused, trial of the above said case could not be proceeded further and therefore, if he is released on bail, again he will abscond and that the case cannot be proceeded further. It is also stated in the impugned order that the prosecution has not yet opened the examination of witnesses.

5. From the records, this Court finds that even after securing the accused and remanding him to prison, for the past two months, there is no progress in the trial. In such circumstances, this Court is of the opinion that this bail petition can be entertained on certain stringent conditions.

6. In the light of the above facts, this Court is inclined to grant bail to the appellant, by allowing the Criminal Appeal on the following conditions:-

- (i) the appellant/accused shall be enlarged on bail, on his executing a bond for Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum and out of which, one blood related surety must be executed to the satisfaction of learned Judicial Magistrate, Sivagiri.
- (ii) the appellant/accused shall report before the learned Family Court Judge, II Additional District & Sessions Judge (FAC), Tirunelveli, on every Monday, besides all the date of hearing;
- (iii) the appellant/accused shall not tamper with investigation or trial and on breach of any of the aforesaid conditions, the learned trial Judge is entitled to take appropriate action, as if the conditions have been imposed and the appellant released on bail by the trial Judge himself as laid down by Hon'ble Supreme Court in **P.K.Shaji vs State of Kerala in 2005 AIR SCW 5560**.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS-I)



To

1. The II Additional District & Sessions Judge (FAC),
Tirunelveli.

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2. The Judicial Magistrate, Sivagiri.

3. The Superintendent Central Prison, Palayamkottai.

4. The Deputy Superintendent of Police,
Puliyankudi,
Tirunelveli District.

5. The Sub Inspector of Police,
Sivagiri Police Station,
Tirunelveli District.

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

+1 CC To MR.K.GOKUL, Advocate SR. NO. 20014

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23.10.2018

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