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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 20.09.2018

DELIVERED ON : 05.10.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.A(MD)No.394 of 2018

Mattivayan @ Muthumani .. Appellant / Accused No.27

Vs.

1.The State through the
Deputy Superintendent of Police,
Manamadurai Sub-Division,
Sivagangai District. .. Respondent /
Investigating Officer

2.The State rep by
The Inspector of Police,
Pazhayanoor Police Station,
Sivagangai District.
(in Crime No.32 of 2018) .. Respondent / Complainant

3.Maheswaran .. Respondent/ de facto
Complainant

Prayer: Criminal Appeal filed under Section 14A(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 as amended by Act 1 of 2016 and 439 of Cr.P.C., against the order passed in Crl.M.P.No.1911 of 2018 dated 31.07.2018 on the file of the Learned Sessions Judge, Sivagangai for bail in Crime No.32 of 2018 dated 29.05.2018 on the file of the respondent for the alleged offences under Sections 147, 148, 294(b), 324, 307 and 302 of I.P.C. and Section 3 of T.N.P.P.D.L and 3(1)(r), 3(1)(s), 3(2)(va) of Sc/ST (POA) Amended Act 2015.

For Appellants:Mr.V.Kannan

For R1 & R2 :Mr.K.Chellapandian,
Additional Advocate General
Assisted by:
Mr.A.Robinson,
Government Advocate (Crl.side)

J U D G E M E N T

This Criminal Appeal is filed by one of the accused facing trial in Special Case No.32 of 2018 before the Special Court for Exclusive trial of cases under SC/ST (POA) Act, 1989, Sivagangai. The brief facts leading to the present bail petition are as below:-

2. Katchanatham Village of Manamadurai Taluk at Sivagangai District is a small hamlet, mostly inhabited by people belonging to the Schedule Caste (SC) community. One family of this hamlet and villagers surrounding this hamlet belong to other community. It appears that there was a personal feud between that one family, belonging to the non-SC Community and the members of the SC Community.

3. On 31.07.2017, the members of the SC Community have given a complaint to the District Collector, alleging that Suman, son of Chandrakumar, is causing disturbance to the members of the SC Community and they are threatening their lives. They have made a specific allegation of events which had taken place in the village on 02.07.2017, 17.07.2017, 18.07.2017 and 29.07.2017 which are cause for their fear. The said representation was given to the District Collector seeking protection for their lives and properties by one Mr.M.Sundaram and nine other villagers. It appears that, thereafter, when the temple festival was conducted on 25.05.2018, Chandrakumar of non-SC community had picked a quarrel with one Shanmuganathan of SC Community. As a result, on 26.05.2018, Shanmuganathan has lodged a complaint against Chandrakumar and others. Consequently, Chandrakumar was enquired by the police.

4. The case under consideration is in respect of the unfortunate event which had taken place on 25.05.2018 at about 09.00 p.m. As per the F.I.R., a case was registered based on the complaint given by Maheswaran, son of Bhominathan. On 28.05.2018, 17 named accused and others armed with deadly weapons attacked Shanmuganathan, Arumugam, Dhanasekaran and others. The roof of the victim's residence was damaged by the mob. The said clash has resulted in the death of three persons and injuries to five others, besides damage to the properties of the SC community people. A case has been registered against 17 named persons and other unknown persons on 29.05.2018 at 05.00 hrs for offence under Sections 147, 148, 294(b), 324, 307 and 302 I.P.C. and Section 3 of Public Property Damage and Loss Act, 1992 and Section 3(1)(r), 3(1)(s), 3(2)(va) of the Schedule Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

5. In the present case, Mattivayan @ Muthumani is arrayed as accused No.27. He was arrested by the police on 29.06.2018. According to the appellant, he has been falsely implicated in this case and not named as an accused in the F.I.R., but later roped in based on false statement, as if he was armed with deadly weapons and



damaged the house of the victim.

6. In the counter affidavit, the respondent has submitted that this petitioner has participated in the crime and damaged the house of the victim. Since police picketing is there and also there is life threat to the victim and witnesses, this bail petition has to be dismissed. It is also stated in the counter affidavit that the accused person may tamper the witnesses if he is released on bail and further his life is also at risk.

7. Heard the learned counsel for the appellant, learned Additional Advocate General appearing for the State and the learned counsel appearing for the victim and perused the records placed before this Court.

8. The trial Court has dismissed the bail petition since the investigation has not been completed and likelihood of tampering of prosecution witness.

9. Undoubtedly, it is a case of brutal murder causing three lives and injury to few others. In a communal clash like this, it is difficult to identify the actual perpetrator of the crime who has caused the death or injury. However, to prove the case of innocence, the petitioner, whose name is not found in the FIR but arrayed as accused based on the statement of witnesses, for his alleged involvement in causing damage to the house of the victim, bail petition has to be entertained to afford full, fair and reasonable opportunity for the accused person to defend his personal liberty. However, the said liberty is subject to condition that he shall not tamper the witnesses and not indulge in any act of violations. Therefore, Appeal is allowed and bail is granted on the following conditions:-

(i) the appellant/accused no. 27 shall be enlarged on bail, by executing a bond for Rs.10,000/- (Rupees Ten Thousand only), with two sureties, one must be a close blood relative, for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, 1989, Sivagangai;

(ii) he will report before the Curator, Mahatma Gandhi Museum, Madurai, on the first Tuesday of every English calendar month at 10.00 am., and stay at Gandhi Museum till 05.00 pm., to learn the teaching of Mahatma.

(iii) he shall not enter his village till the disposal of the trial on any account and he shall participate in the trial without fail.

(iv) he shall not tamper with investigation or trial; and

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(v) 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.

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Sd/-
Assistant Registrar(T&P)

Sub Assistant Registrar(CS-III)

To

- 1.The Sessions Judge,
Special Court for Exclusive Trial of Cases
under SC/ST (POA), Act, 1989, Sivagangai.
- 2.The Deputy Superintendent of Police,
Manamadurai Sub-Division,
Sivagangai District.
- 3.The Inspector of Police,
Pazhayanoor Police Station,
Sivagangai District.
- 4.The Superintendent of Central Prison,
Madurai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:
The Curator,
Mahatma Gandhi Museum,
Madurai.

+1CC TO MR.V.KANNAN, ADVOCATE IN SR.NO.88902.
+1CC TO MR.G.BHAVATH SINGH, ADVOCATE IN SR.NO.89226.

STS
TR DS SKN SAR-3 08.10.2018 4P/9C