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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.397 of 2018

K.Ottakulathan @ Kandasamy .. Appellant /Accused No.7

Vs.

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

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

.. Respondent 1 & 2/
Complainant

3.Maheswaran .. 3rd 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, praying to call for the records in Cr.M.P.No.2982 of 2018 on the file of the learned Sessions Judge, Sivagangai (Special Court for trial of cases under SC-ST (POA) Act, 1989) and set aside the same and consequently, enlarge the appellant on bail in connection with Cr.No.32 of 2018 on the file of the respondent police.

For Appellant :Mr.M.Jegadees Pandian

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

For R3 : Mr.G.Bhagavath Singh

J U D G E M E N T

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

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:-

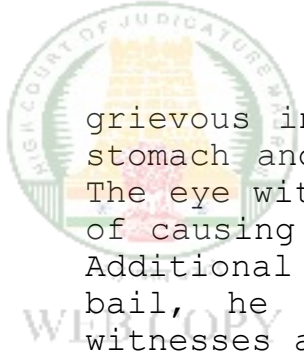
2. Katchanatham Village of Manamadurai Taluk at Sivagangai District is a small hamlet, mostly inhabited by people belonging to the Schedule Caste (SC) community. One family of this hamlet and villagers surrounding this hamlet belong to other community. It appears that there was a personal feud between 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 Bhoominathan. 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. The appellant herein, is arrayed as 7th accused. According to the appellant, the prosecution has completed the investigation and filed the final report. He has been falsely implicated, as to wreck vengeance against him. Since 01.06.2018 he is in judicial custody, to defend his case and prove innocence he may be released on bail and he is ready to abide by any condition.

6. Whereas, the State has opposed the bail petition on the ground that this appellant has actively participated in the crime with deadly weapon and sword. He along with other accused has caused



grievous injury to Malaisamy, who has sustained injuries in chest, stomach and hand. The petitioner's name is found in the complaint. The eye witness Maheswaran has named this appellant and his overtact of causing injury to Malaisamy. It is also contended by the learned Additional Advocate General that if the appellant is released on bail, he will not only tamper the witnesses but threaten the witnesses and even his own life is at risk because of the prevailing animosity of the two communities.

7. Heard the learned counsel for the appellant, learned Additional Advocate General for the State and learned counsel appearing for the victim and perused the bail petition impugned and counter affidavit filed by the State.

8. Taking note of the above said situation, this Court, in the larger interest of the public and tranquility prevailing, considers that it is not prudent to release the appellant on bail. Hence, the Criminal Appeal is dismissed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

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.

+1CC TO MR.G.BHAGAVATH SINGH, ADVOCATE IN SR.NO.85666.

STS

DS TR SKN SAR-3 08.10.2018 3P/7C

Cr1.A(MD)No.397 of 2018

05.10.2018