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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**

**Cr1.A(MD)No.437 of 2018**

1) Prasanth @ Arunpandi

2) Ravi @ Mukilan

.. Appellants /  
Accused No.28 & 29

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, praying to call for the records in Cr.M.P.No.3383 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 appellants on bail.

For Appellants:Mrs.P.Krishnaveni

For R1 & R2 :Mr.K.Chellapandian,  
Additional Advocate General  
Assisted by:  
Mr.A.Robinson,  
Government Advocate (Cr1.side)



For R3

: Mr.G.Bhagavath Singh

**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 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.

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

5. The present appellants Prasanth @ Arunpandi, son of Balamani and Ravi @ Mukilan, son of Sekar, both aged about 19



years are arrayed as accused no.28 and 29. They were arrested on 21.06.2018 by the police. Their bail petitions before the trial Court was dismissed on 14.09.2018 on the ground that, gravity of the offence, the nature of evidence in support of accusation, circumstances under which the offence was committed does not warrant release of the accused on bail, specially, in the early stage of investigation.

6. The petitioners herein, through their learned counsel would submit that the *de facto* complainant, who is the witness to the occurrence has not whispered their names in the complaint. The complaint has been lodged after lapse of eight hours attributing specific overtact to each of the offenders. The allegations against these two petitioners is that they demolished the tiles of the victim's house worth Rs.5,635/-. They were not present at the scene of occurrence but languishing in the jail, since 21.06.2018. After completing the investigation, the respondent has filed the final report and the Special Court has already taken cognizance. Therefore, based on that final report, they may be enlarged on bail on any conditions which they are ready to abide.

7. Learned Additional Advocate General representing the the State would submit that, it was a brutal murder of three innocent persons belonging to the oppressed community. Due to communal clash, three persons were killed with lethal weapons and five were grievously hurt, besides the properties of the oppressed community have been damaged by the accused persons. The police after thorough investigation from the statement of witnesses and the confession statement of the accused persons, have laid charge sheet against the persons who have participated in the crime. The decree of offence and overtact of each accused though, may vary, they all form part of unlawful assembly in furtherance of common intention to commit murder and other offences. Therefore, if these petitioners are released on bail, there is a possibility of tampering the witnesses and recurrence of violence. Also, danger to the victim witness as well as to the perpetrator of the crime is likely to happen. Therefore, he vehemently opposed the granting of bail.

8. Learned counsel would also cite the judgments of the Hon'ble Supreme Court, where the Hon'ble Supreme Court has specifically observed that in case of grave nature and likelihood of disharmony among society, jail should be the rule and bail should be the exception.

9. In support of the statement made by the learned Additional Advocate General appearing on behalf of the State, the learned counsel appearing for the victim, who was put to notice, submitted that the members of the victim family and the witnesses are still under the threat and pressure. The brutal attack and assault on the victim could be seen from the post-mortem report, where the deceased persons have sustained multiple injuries all across their



bodies. The deceased are the persons who earlier complained to the police as well as the District Administrative Authorities apprehending life threat. They were identified by the mob and done away by them. Therefore, if the petitioners are released on bail, the witnesses will be left without protection.

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10. The learned counsel would also submit that the situation in the village is tensed and normalcy has not returned. The police is picketing with a force of 130 police men, keeping surveillance round the clock in the village. Therefore, he would submit that since the statute mandates completion of trial within a specific period, the accused may face the trial from the prison or else they will tamper the evidence and derail the proceedings.

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

12. Unfortunately, it is a case of brutal attack by men of force and Authority against the oppressed community. The bare fact indicated the death of three persons, who were indiscriminately attacked all over the body. The *de facto* complainant who has set the criminal law in motion is also an injured victim. He has named 17 persons and also identified each of the assailants and their overtact. As far as these two petitioners are concerned, their names are not found in the F.I.R. The overtact attributed to them is causing damage to the roof tiles worth Rs.5,635/-. The prosecution has completed its investigation and final report already been filed and taken on file. In the said circumstances, balancing the personal liberty of the individual and larger interest of the society and also in order to bring back normalcy in the disturbed area, it is just and necessary to grant bail to these two petitioners on the following conditions:-

(i) the appellants/accused 28 and 29 shall be enlarged on bail, on each of them executing a bond for Rs.10,000/- (Rupees Ten Thousand only) each, with two sureties, one must be a close blood relative, each 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) they will report before the Curator, Mahatma Gandhi Museum, Madurai, on the first **Monday** of every English calendar month at 10.00 am., and stay at Gandhi Museum till 05.00 p.m., to learn the teaching of Mahatma.

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



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

(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 appellants 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 (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.

COPY TO

The Curator, Mahatma Gandhi Museum, Madurai.

- +1 CC To MR.P.KRISHNAVENI, Advocate SR. NO. 18955
- +1 CC To MR.G.BHAGAVATH SINGH, Advocate SR. NO. 89225

Judgment in  
**Cr1.A(MD)No.437 of 2018**  
05.10.2018