

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 20.09.2019

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.A.No.606 /2019

Sankar

..

Appellant/2-Accused

Vs

1.State rep. By
The Station House Officer,
Mailam Police Station,
Villupuram District.
(Crime No.217/2019)

2.Mrs.Kaliammal
W/O.late Konthandam
Mariamman Koil Street
Veliyanur Village,
Tindivanam Taluk,
Villupuram District

... Complainant/Respondent

(R2 is impleaded as per order in Crl.Mp.No.13443/19 in
Crl.A.606/19 dt.18/9/19)

Prayer:- The Criminal Appeal is filed under Section 14-A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Amendment) Act, 2015, to set aside the order dated 04.09.2019 made in C.M.P.No.1193/2019 on the file of Sessions Judge, Special Court for exclusive trial of cases registered under prevention of Atrocities Act 1989, Villupuram and enlarge the appellants on bail concerned in crime No.217/19 and to allow the appeal by enlarging the appellant on bail.

For Petitioner : M/S.S.Anburaja

For Respondent : Mr.M.Mohamed Riyaz, APP-R1

JUDGEMENT

1.This Criminal appeal has been filed by the Appellant/A2, against the order dated 04.09.2019, made in Crl.MP.No.1193 of 2019, passed by the Sessions Judge, Special Court for Exclusive Trial of Cases Registered under the Scheduled Castes

and The Scheduled Tribes (Prevention of Atrocities) Act, 1989, Villupuram, dismissing the said petition filed under Section 439 of Cr.PC, seeking bail and seeking to enlarge the Appellant/Accused the petitioner on bail.

2. The facts of the case are that on the complaint of one Bakkiyalakshmi, alleging that her husband, Murugan was found missing, a case in Cr.NO.217/2019 was registered by the respondent on 23.04.2019 under the caption of 'man missing' and that during the investigation, it came to light that due to illicit intimacy the said Bakkiyalakshmi had with the first Accused, one Kaliyamoorthy, they conspired along with the accused and committed the murder of the said Murugan and thereby the case was altered to one under Sections 120(b), 364, 328, 201, 302 of IPC read with Section 3(2)(v) of the SC/ST Act. Thereafter, the Appellant/Accused was arrested and remanded to judicial custody. In and by the impugned order, the Petition filed by the Appellant/A2 under Section 439 of Cr.PC, seeking bail was dismissed. Hence, this Criminal Appeal has been filed.
3. This court heard the learned counsel on either side and also perused the materials placed on record.
4. The learned counsel for the petitioner would submit that the Appellant/Accused is innocent and he has been falsely implicated in this case and that the Appellant/Accused has been implicated based on the confession of A1, wherein A1 had confessed that he developed illicit intimacy with the wife of Murugan and they have committed murder of said Murugan. He would submit that the petitioner was arrested on 25.06.2019 and that for 85 days, he is in custody and that the major part of the investigation is over.
5. This Court ordered notice to the respondent and also directed to inform the mother of the deceased namely Kaliasammal and that police have also intimated the said Kaliasammal, however, there is no appearance for the victim.
6. The learned Additional Public Prosecutor would submit that initially the case was registered under the caption 'man missing' and later it came to light that the A-1 one Kaliyamoorthy had illicit intimacy with Bakkiyalakshmi wife of the deceased Murugan and that they have conspired together along with the petitioner herein and that they have committed the murder of deceased Murugan. The petitioner and A-1 had taken the said Murugan to the liquor shop and after making him to drink, had strangulated him with a nylon rope, thereby causing his death. The petitioner and A-1 have confessed about the conspiracy and having committed the murder of the deceased. He would submit that the investigation is pending and therefore he opposed for grant of bail.
7. Considering the facts and circumstances of the case and also considering the submissions of the learned Additional Public

Prosecutor that major part of the investigation is over, this Court is of the view that this Criminal Appeal is to be allowed.

8. Accordingly, this Criminal Appeal is allowed, setting aside the impugned order. The Appellant/Accused is ordered to be enlarged on bail, on the following conditions:

- i. The Petitioner/ accused shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties, each for a like sum to the satisfaction of the Sessions Judge, Special Court for Exclusive Trial of Cases Registered under the Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities) Act, 1989, Villupuram.
- ii. The Petitioner//accused shall report before the respondent police everyday at 10.30 a.m., until further orders.

Sd/-

Assistant Registrar (CS-)

//True Copy//

Sub Assistant Registrar

jrs/Srcm

To

1. The Sessions Judge,
Special Court for Exclusive Trial of Cases
Registered under the Scheduled Castes
and The Scheduled Tribes (Prevention of Atrocities)
Act, 1989,
Villupuram.

2. The Station House Officer,
Mailam Police Station,
Villupuram District.
(Crime No.217 of 2019)

3. The Public Prosecutor, High Court, Madras.

4. The Section Officer
Criminal Section
High court, Madras.

+1cc to Mr.S.Anburaja Advocate, S.R.No.80947

RSI (CO)
CB(23/09/2019)

Cr1.A.No.606 /2019