IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

Crl.A.No.614 of 2019

1.Manikandan
2.Sakthivel Appellants/Accused-1 & 2

Vs.

1. State represented by Station House Officer
Gingee Police Station, Gingee, Villupuram
Respondent/Complainant

2.Elumalai 2-Respondent
(R2 is impleaded as per order in Crl Mp.NO.13513/19 in CRL A 614/2019 DATED 19.09.2019)

PRAYER:- This Criminal Appeal has been filed under Section 14 A of SC/ST Act, to set aside the order dated 06.09.2019 in Crl.MP.No.1280/20019 on the file of the Sessions Judge, Special Court for Exclusive Trial of cases registered under SC/ST (POA) Act, Villupuram and enlarge the Appellants/A1 and A2, on bail in Crime No.465/2019 on the file of the respondent police.

For Appellant : K.G.Senthil kumar

For Respondent : Mr.M.Mohamed Riyaz, APP

JUDGMENT

1.This Criminal Appeal has been filed by the Appellants/A1 and A2, seeking to set aside the order dated, 06.09.2019, made in Cr.MP.No.1280 of 2019, by the Sessions Judge, Special Court for Exclusive Trial of Cases, registered under SC/ST (POA) Act, Villupuram and enlarge the Appellants/A1 and A2 on bail in Cr.No.465 of 2019, on the file of the Respondent Police.

2.This Court heard the learned counsel on either side and also perused the materials placed on record.

3.The facts of the case are that on 15.08.2019 at about 8.00 a.m. the Appellants/A1 and A2, who belong to Vanniyar Community, came to the house of the defacto complainant and threatened him by mentioning his caste name and warned him, stating that his son, deceased Gopi

should not disturb their relative's daughter under the guise of love affair and thereafter, the deceased was found missing and thereafter, the body of the deceased was found hanging in a neem tree near Sankara Barani River. Hence, on the complaint made by the defacto complainant, a case was registered in Cr.No.465 of 2019 for the offences under Sections 294(b), 506(i) and 305 of IPC read with Section 3(1)(r) and (s), 3(2)(v0 and (va) of the SC/ST (POA) Act. Thereafter, the Appellants/A1 and A2 were arrested and remanded to judicial custody on 16.08.2019. In and by the impugned order, the Court below had dismissed the petition filed by the Appellants/A1 and A2 under Section 439 of Cr.PC, seeking bail. Hence, this Criminal Appeal has been filed by the Appellants/A1 and A2.

4. The learned counsel for the Appellants/A1 and A2 would submit that even as per the complaint, the Appellants/A1 and A2 were stated to have threatened the defacto complainant, who is the father of the deceased and that there is no allegation as if the deceased was threatened by the Appellants/A1 and A2. He would further submit that on the previous day itself, the deceased was found missing and he was found to have committed suicide on the next day and that the deceased committed suicide since he was reprimanded by his father and that the Appellants/A2 and A2 have been unnecessarily roped in this case. The learned counsel for the petitioner would further submit that the petitioners were arrested on 16.08.2019 and remanded to Judicial custody on the same day. He would submit that major part of the investigation is over and that further custody of the petitioner may not be necessary and thereby, he would seek for bail.

5. The learned Additional Public Prosecutor for the 1st Respondent has filed a counter, stating that the Appellants/A1 and A2, who belong to the upper caste community, had threatened the deceased, son of the defacto complainant, aged about 15 years and that the deceased was in relation with the daughter of their relatives and hence, they have threatened the defacto complainant, his son and his family members with dire consequences, stating that if his son again met the daughter of their relatives, they will kill and hang him in a tree and that on the next day , the son of the defacto complainant was found dead, hanging from the tree. He would further submit that the investigation is pending and viscera report and the chemical analysis report are yet to be received and hence, would oppose to enlarge the Appellants/A1 & A2 on bail, at this stage.

6.This Court had directed the Appellants/A1 and A2 to implead the defacto complainant, father of the deceased as a necessary party. Private notice was also ordered and it has been served and the respondent police have also intimated the respondent and thereafter, the name of the defacto complainant is also printed in the cause list. There is no representation for the defacto complaint.

7.Taking into consideration the facts and the submissions made by the counsel and taking into consideration that the appellants are in custody from 16.08.2019 and that major part of the investigation is over, this Court is inclined to grant bail to the Appellants/A1 and A2. Accordingly, this Criminal Appeal is allowed and the Appellants/A1 and A2 are ordered to be released on bail on condition that each of the Appellants/A1 and A2 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 learned Sessions Judge of Villupuram District at Villupuram, and on further conditions that:

[a]The petitioners shall stay at Madurai and report before the Inspector of Police, Thallakulam Police station daily at 10.30 am. Until further orders.

[b] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioners shall not abscond either during investigation or trial.

[d] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

[e] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

jrs

To
1.The Sessions Judge,Villupuram
Special Court for Exclusive
Trial of cases registered under SC/ST (POA) Act, Villupuram

2. The Sessions Judge,
Villupuram.

3. The Station House Officer
Gingee Police Station,
Gingee, Villupuram District.

4. The Public Prosecutor,
High Court, Madras.

5.The Inspector of Police,
Thallakulam Police Station,
Madurai

+1cc to Mr.K.G.Sethil kumar , Advocate SR.No. 81973

Crl.A.No.614 of 2019

A.SK(24/09/2019)