

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.A.NO.697 OF 2019

N.Kailymoorthi

... Appellant/A-1

Vs.

The State rep by,  
The Station House Officer,  
Mailam Police Station,  
Villupuram District.  
(Crime No.217/2017)

... Complainant/Respondent

PRAYER:-

This Criminal Appeal has been filed under Section 14(A) of Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act-2014, against the dismissal order dated 01.10.2019 in Crl.MP.No.1324 of 2019 on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases registered under the SC/ST Act-1989, Villupuram and to enlarge the appellant on bail in Crime No.1324/2019 on the file of the respondent.

For Appellant : Mr.P.Venugopal

For Respondent : Mr.M.Mohamed Riyaz, APP

JUDGMENT

1.This Criminal Appeal has been filed by the Appellant/A-1 against the order of dismissal of the bail application in Crl.MP.No. 1324 of 2019 dated 01.10.2019.

2.The brief facts of the prosecution of the case is hereunder:

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 petitioner, they conspired along with yet another 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 based on an alleged extra judicial confession recorded from him as if he developed illicit intimacy with the wife of Murugan and due to which have committed murder of said Murugan. He would submit that other than the extra judicial confession there is no other material to implicate the petitioner. The petitioner was arrested on 25.06.2019 and that he is in judicial custody for more than 90 days. He would submit that charge sheet has not been filed so far.
- 5.This Court ordered notice to the respondent and also directed the 1<sup>st</sup> respondent to inform the mother of the deceased namely Kaliammal and that police have also intimated the said Kaliammal, 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 petitioner had illicit intimacy with Bakkiyalakshmi wife of the deceased Murugan and that they have conspired together along with Sankar and that they have committed the murder of deceased Murugan. The petitioner and the said Sankar 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 has 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.
- iii.the petitioner shall not tamper with evidence or witness either during investigation or trial.
- iv.the petitioner shall not abscond either during investigation or trial.
- v. On breach of any of the aforesaid conditions, the learned Sessions Judge, Special Court for Exclusive Trial of Cases registered under the SC/ST Act-1989, Villupuram is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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].
- vi.If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

jrs

To

1. The Sessions Judge, Special Court for Exclusive Trial of Cases registered under the SC/ST Act, Villupuram.
2. The Station House Officer,  
Mailam Police Station, Villupuram District.

3. The Public Prosecutor,  
High Court, Madras.

+lcc to Mr.P.Venugopal, Advocate, S.R.No.87083

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CS/21/10/2019



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