

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2019

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.A.No.716 of 2019

Boopathy

... Appellant

Vs.

1.State rep by
The Deputy Superintendent of Police,
Namagiripet Police Station,
Namakkal District.
(Crime No.244 of 2019)

2. R.Pannerselvam
R2 is impleaded as per order in
Crl.M.P.No.15132 of 2019 in Crl.A.No.716 of 2019
dated 22.10.2019

... Respondents

सत्यमेव जयते

PRAYER: The Criminal Appeal has been filed, under Section14(A)(2) of the Scheduled Caste and Scheduled Tribe Act, 1989, seeking to set aside the order dated 30.09.2019, made in Crl.M.P.No.78/2019, by the Special Court for SC & ST (POA) Act cases, Namakkal and consequently enlarge the appellant on bail in Crime No.244/2019 pending on the file of Deputy Superintendent of Police, Namagiripet Police Station.

For appellant : Mr.A.S.Prabu
For Respondent : Mr.M.Mohamed Riyaz
Addl. Public Prosecutor for R1
: No appearance for R2

JUDGMENT

This Criminal Appeal has been filed by the appellant, seeking to set aside the order dated 30.09.2019, made in Crl.M.P.No.78/2019, by the Special Court for SC & ST (POA) Act cases, Namakkal.

2. The case of the prosecution is that as per the complaint given by the defacto complainant Pannerselvam who is the Secretary in VCK party is that on 04.09.2019 he had received a whatsapp message in which the accused had uploaded a photo of him stamping on the picture of his party leader. Based on his complaint a case in Crime No.244 of 2019 was registered by the respondent police for offence under Section 153(a), 505(2) (c) IPC and section 3(1) (t) of SC/ST (POA) amendment Act, 2015 and on the same day the petitioner was

arrested. The petitioner filed a petition before the trial Court for bail in Crl.M.P.No.78 of 2019 and the same was dismissed on 30.09.2019.

3. The learned counsel for the petitioner submitted that the petitioner was arrested on 04.09.2019 and he is in custody for more than 58 days. He would further submit that investigation in this case has been over.

4. The learned Additional Public Prosecutor vehemently opposed for granting of bail by stating that the petitioner had taken photos of himself stamping the poster of the political leader who is also a sitting M.P and uploaded the same in social media to defame the leader and create enmity between two communities. Due to such act he has created enmity between two community groups and also created law & order problem in the area. The petitioner belongs to upper caste community and he has specifically done this act against a political leader and M.P. who belongs to Schedule Caste community. He further submitted that investigation is pending and till date agitations are

going on in that area against the act of the petitioner.

5. This Court heard the learned counsel for the appellant and the learned Additional Public Prosecutor appearing for the 1st respondent and also perused the materials placed before this court.

6. The de-facto complainant was directed to be impleaded and private notice was ordered and the 1st respondent police was also directed to intimate the de-facto complainant. Despite notice, intimation and name printed in the cause list there is no representation for the 2nd respondent/de-facto complainant. Affidavit of service is filed.

7. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side, the criminal appeal is allowed and the Appellant is ordered to be enlarged on bail on the following conditions:-

- a) The Appellant is ordered to be released on bail, on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only) with two sureties, of whom, one should

be a blood relative, each for a like sum to the satisfaction of the Special Court for SC & ST (POA) Act Cases, Namakkal.

- b) The appellant and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.
- c) The appellant shall file an affidavit of undertaking before the trial Court that he will not indulge in such activities in future.
- d) The appellant shall stay at Nagercoil and report before Vadasery Police Station every day at 10.30 a.m., until further orders.
- e) The appellant shall not enter the Namagiripet Police Station limits until further orders.
- f) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court 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

A.D.JAGADISH CHANDIRA.J,

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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]**.

01.11.2019

Index:Yes/No
Web: Yes/No
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Issue today

To

- 1.The Special Court for SC & ST (POA) Act cases, Namakkal
2. The Deputy Superintendent of Police
Namagiripet Police Station, Namakkal District.
3. The Public Prosecutor, High Court, Madras.
4. The Sub Jail, Rasipuram.

Crl.A.No.716 of 2019