



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 18.09.2019

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THE HONOURABLE MR. JUSTICE V.PARTHIBAN

CRL. A. (MD) NO. 371 OF 2019

Kulanthaisamy

.. Appellant

- Vs -

1. The State, rep. by  
The Dy. Superintendent of Police  
Sivagangai, Sivagangai District.

2. The State, rep. by  
The Inspector of Police  
Ilayangudi Police Station  
Sivagangai District.

3. Peramaiya

.. Respondents

Criminal Appeal filed u/s 14 A(2) of the SC/ST (PoA) Act, 1989, against the order dated 19.8.2019 made in Cr. M.P. No.3760/2019 in Spl. S.C. No.100 of 2018 on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST (PoA) Act, Sivagangai, set aside the same and release the appellant on bail.

For Petitioner : Mr. M.S.Jeyakarthick

For Respondents : Mr. V.Neelakandan, APP for RR-1 & 2

No Appearance for R-3

**ORDER**

The appellant was charged for the offence u/s 341, 294 (b) and 323 IPC r/w Section 3 (i)(x) of the SC/ST Act in S.C. No.100/2018 and the appellant surrendered before the court below pursuant to the order passed by this Court in Crl. O.P. (MD) No.10789/2019. Vide the said order, this Court had directed the court below to consider the bail application of the appellant herein on merits and pass

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appropriate orders on the same day. Pursuant to the said order, the Court below had considered the same and dismissed the bail petition filed by the appellant in CrI. M.P. No.3760/2019 vide the impugned order, assailing which the present appeal has been filed.

2. It is the submission of the learned counsel for the appellant that the appellant had surrendered before the court below pursuant to the order passed by this Court and that the investigation in the case is completed and, therefore, there is no scope for the petitioner to tamper with the evidence, which has not been considered by the court below, while rejecting the bail petition and, hence, prayed for grant of bail. It is further submitted by the learned counsel for the appellant that the appellant would abide by any condition that this Court may impose on him for grant of bail.

3. Per contra, learned Addl. Public Prosecutor appearing for respondents 1 and 2 submits that for securing the appellant, non-bailable warrant was issued and only thereafter the appellant surrendered before the court below, which fact has not been disclosed before this Court in the earlier round of litigation and, therefore, no leniency should be shown to him, which was conceded by the learned counsel for the appellant.

4. Heard the learned counsel appearing for the appellant and the learned Addl. Public Prosecutor appearing for respondents 1 and 2 and perused the materials available on record.

5. It is evident from the order passed by the court below that the victim had not appeared before the Court. It is also not disputed by the respondents that investigation in the case is completed and the case has been taken on file in S.C. No.100/2018. Though the undisputed fact relating to non-disclosure of issuance of non-bailable warrant before this Court stares at the face of the appellant, the appellant concedes that it is a fact and that it is neither wilful nor wanton and pleads that it is only an inadvertent mistake.

6. Taking into consideration the totality of the circumstances and the fact that investigation in the case has been completed and the case has been taken on file, and that the appellant is under incarceration for a considerable length of time, this Court is inclined to grant bail.

7. Accordingly, the appeal is allowed and the appellant is directed to be enlarged on bail on condition that the appellant executes a bond for a sum of Rs.10,000/- with two sureties, each for a likesum, to the satisfaction of the District & Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST (PoA) Act, Sivagangai, and on further condition that the appellant shall appear



before the said Court at 10.30 a.m. on the 1st working day of every month until further orders.

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Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The District & Sessions Judge  
Special Court for Exclusive Trial of  
Cases under SC/ST (PoA) Act  
Sivagangai.
2. The Superintendent, Central Prison, Madurai.
3. The Deputy Superintendent of Police, Sivagangai.
4. The Inspector of Police, Ilayangudi Police Station,  
Sivagangai District.
5. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

**Copy to:**

The Section Officer, (2 Copies)  
Criminal Section,  
Madurai Bench of Madras High Court,  
Madurai.

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate ( SR-87525[F] dated  
18/09/2019 )

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18.09.2019

GLN

JMN(19.09.2019) 3P : 9C