

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.06.2020

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.A.No. 248 of 2020

Vijayakumar,(M/27)
S/o.Thennavan,
T.V.Nagar,
Tindivanam, Villupuram District. Appellant

-Vs-

1.The State represented by
Station House Officer,
Tindivanam Police Station,
Tindivanam.

2.Vinod S/o. Mathiazhagan,
Mariamman Kovil Street,
Roshanai, Tindivanam.
(Crime No.401 of 2015) ... Respondents

Prayer: Criminal Appeal filed under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act praying to set aside the order dated 18.05.2020 passed in Crl.M.P.No.711 of 2020 on the file 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 and to enlarge the appellant on bail in connection with Crime No.401 of 2015 on the file of the respondent police.

For Appellant : Mr.R.Sreedhar

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

J U D G M E N T

This appeal is filed as against the dismissal order dated 18.05.2020 passed by the learned Sessions Judge, Special Court for Exclusive trial of cases registered under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989 in Crl.M.P.No.711 of 2020, thereby refusing bail to the appellant in Crime No.401 of 2015, registered for the offences under Sections 109, 147, 294(b), 324, 342 and 307 r/w 34 IPC & 3(1) (x), 3(2) (v) of the SC/ST Act, 1989 before the Special Court for Exclusive trial of cases registered under the SC/ST (POA) Act, on the file of the respondent police.

2.It is a case of jumped bail. The said case was taken on file by the learned Sessions Judge, Special Court for Exclusive trial of cases registered

under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989 as Spl.SC.No.68 of 2016 and charges were framed against the appellant for the alleged offences punishable under Sections 109, 147, 294(b), 324, 342 and 307 r/w 34 IPC & 3(1) (x), 3(2) (v) of the SC/ST Act, 1989 before the Special Court for Exclusive trial of cases registered under the SC/ST (POA) Act. On 01.10.2018, when the case was taken up, the appellant was not present before the trial Court, which resulted in issuance of Non-bailable warrant against him. Subsequently, he was arrested and remanded to judicial custody on 23.01.2020.

3. The learned counsel for the appellant submitted that the appellant was regularly appearing before the trial Court and on 01.10.2018, when the Sessions Case was taken up, due to illness, he was not present, which resulted in issuance of NBW against him. He further submitted that the non-appearance of the appellant before the trial Court on the said day is neither willful nor wanton. Without considering the said aspect in a proper perspective, the trial Court dismissed the bail petition filed by the appellant.

4. The learned Additional Public Prosecutor would submit that the petitioner did not appear before the Court before due to which, NBW was issued against the petitioner on 01.10.2018 and that the petitioner was arrested after a period of 1½ years. Hence, he vehemently opposed for grant of bail to the appellant.

5. Heard Mr.R.Sreedhar, learned counsel appearing for the appellant and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the respondent.

6. Considering the fact that the appellant has been in incarceration from 23.01.2020, and also considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court is inclined to grant bail to the appellant.

7. Accordingly, this appeal stands allowed by setting aside the order impugned herein. The appellant is ordered to be enlarged on bail, subject to the following conditions:

(a) the appellant is directed to execute his own bond for a sum of Rs.10,000/- (Rupees Ten thousand only) before the Superintendent of the concerned prison;

(b) thereafter, the appellant shall execute two sureties for a sum of Rs.10,000/-(Rupees ten thousand only) each, before the concerned Magistrate on or before **10.07.2020**, failing which the bail granted by this Court shall stand dismissed.

(c) The appellant and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the trial Court may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

(d) The appellant shall appear before the trial Court daily at 10.30a.m. until further orders.

24.06.2020

Index : Yes / No

Internet : Yes

Speaking/Non speaking order

Note : Issue order copy on 25.06.2020
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To

1. The learned 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,
Tindivanam Police Station,
Tindivanam.
3. The Superintendent,
Central Prison, Cuddalore.
4. The Public Prosecutor,
Madras High Court,
Chennai-104.

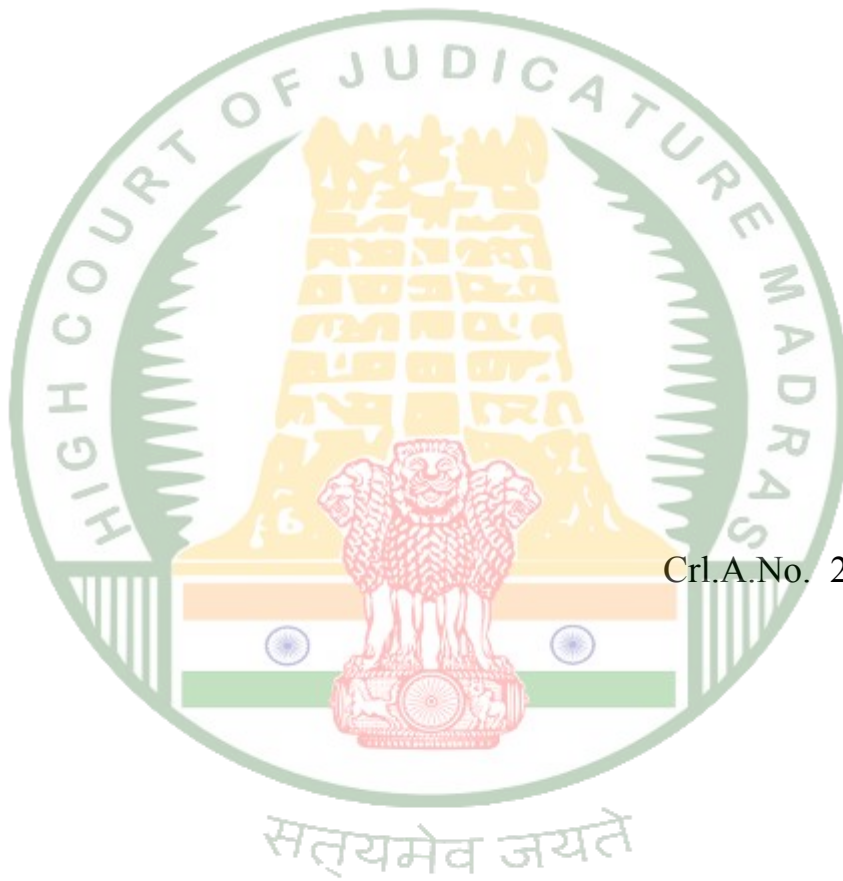


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