

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.07.2020

CORAM

THE HON'BLE MR. JUSTICE P.N.PRAKASH

Crl.A. No.271 of 2020

1 Elavarasan
2 Raj @ Rajesh
3 Shankar Appellants

Vs.

1 State represented by
the Deputy Superintendent of Police
Paravakottai Police Station
Tiruvarur
(Cr. No.437 of 2020)

2 State represented by
the Sub Inspector of Police
Paravakottai Police Station
Tiruvarur
(Cr. No.437 of 2020)

3 Anusuya Respondents

Criminal Appeal filed under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, to set aside the order dated 23.06.2020 passed in bail petition in Crl.M.P. No.292 of 2020 on the file of the I Additional District and Sessions Judge, Thanjavur and to enlarge the appellants on bail in Crime No.437 of 2020 on the file of the respondent police.

For appellants Mr. N.R. Elango, Sr. Counsel
for Mr. E. Raj Thilak

For RR 1 & 2 Mr. K. Madhan
Govt. Advocate (Crl. Side)

For R3 Mr. Swami Subramaniam

JUDGMENT

This criminal appeal has been preferred seeking to set aside the order dated 23.06.2020 passed in the bail petition in Crl.M.P. No.292 of 2020 on the file of the I Additional District and Sessions Judge, Thanjavur, and to enlarge the appellants on bail in Crime No.437 of 2020, on the file of the respondent police.

2 It is the case of the prosecution that the deceased Ravi was a temporary farm hand of Ilavarasan (A.1) and that since Ravi did not come for work, Elavarasan (A.1), along with Raj @ Rajesh (A.2) and Shankar (A.3), questioned him on 24.05.2020 around 7.00 p.m. and an altercation ensued, in which, it is alleged that all the three accused had beaten Ravi and pushed him into a nearby well. Ravi was ferried out of the well by his relatives Sakthivel and Sethupathy and was admitted to the Government Hospital, Mannargudi, for treatment.

3 On the complaint lodged by Anusuya, wife of Ravi and the third respondent herein, the police registered a case in Cr. No.437 of 2020 against the appellants for the offences under Section 294(b), 324 and 307 IPC and Sections 3(1)(r)(s) and 3(2)(va) of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act. Subsequently, after Ravi succumbed to the injuries, the case was altered to one under Sections 294(b), 324 and 302 IPC and Sections 3(1)(r)(s) and 3(2)(va) of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act. The accused were arrested and sent to judicial custody on 26.05.2020. Their bail application in Crl.M.P. No.292 of 2020 was dismissed by the Special Court for SC/ST Act Cases on 23.06.2020. Aggrieved by the dismissal of their bail application, the three accused have preferred the instant criminal appeal.

4 Heard Mr. N.R. Elango, learned Senior Counsel, representing Mr. E. Raj Thilak, learned counsel on record for the appellants, Mr.K.Madhan, learned Government Advocate (Crl. Side) appearing for the State and Mr. Swami Subramaniam, learned counsel for Anusuya (*de facto* complainant/third respondent herein).

5 It is the case of the appellants that Ravi had incidentally slipped into the well and when he was rescued from the well, he told this to his rescuers, but, his version has been distorted and a case was foisted on the appellants as if they had pushed him into the well.

6 Mr. Swami Subramaniam strongly opposed the grant of bail to the appellants.

7 In this case, no dying declaration has been recorded by any Magistrate. Ravi was alive when he was rescued from the well by his relatives, Sakthivel and Sethupathy. However, it is the assertion of his wife Anusuya that Ravi told her that it was the appellants who pushed him into the well.

8 Concededly, the appellants have been in custody since 26.05.2020. Taking into consideration the conspectus of the facts obtaining in this case, this Court is of the view that the appellants are entitled to the relief of bail.

Accordingly, this criminal appeal is allowed and the order dated 23.06.2020 passed by the I Additional District and Sessions Judge, Thanjavur, in Crl.M.P.No.292 of 2020 is set aside and the appellants are ordered to be released on bail, on they executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each, with two sureties (of whom, one should be a blood relative) each for a like sum, to the satisfaction of the I Additional District and Sessions Judge, Thanjavur, and on further conditions that:

[a] The sureties shall affix their photographS and left thumb impression in the surety bond and the I Additional District and Sessions Judge, Thanjavur, may obtain a copy of the aadhaar card or bank pass book to ensure their identity;

[b] On release, the appellants shall appear before the second respondent police everyday at 10.30 a.m. for a period of two weeks and thereafter, as and when required.

[c] The appellants shall not tamper with evidence or witness either during investigation or trial and shall also not abscond either during investigation or trial;

[d] On breach of any of the aforesaid conditions, the learned I Additional District and Sessions Judge, Thanjavur, is entitled to take appropriate action against the appellants in accordance with law as if the conditions have been imposed and the appellants released on bail by the I Additional District and Sessions Judge, Thanjavur, himself, as laid down by the Supreme Court in **P.K.Shaji Vs. State of Kerala [(2005)AIR SCW 5560]**; and

P.N.PRAKASH, J.

cad

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

17.07.2020

cad

Note : Issue order copy today

To

- 1 The Deputy Superintendent of Police
Paravakottai Police Station
Tiruvarur
- 2 The Sub Inspector of Police
Paravakottai Police Station
Tiruvarur
- 3 The I Additional District and Sessions Judge
Thanjavur
- 4 The Superintendent
Central Prison
Trichy
- 5 The Public Prosecutor
High Court, Madras

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