

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

CRL.A.No.463 of 2020

Jeevanathan,
S/o.Arumugam

.. Petitioner

/versus/

1.The State of Tamil Nadu,
Rep by the Inspector of Police,
Jedarpalayam Police Station,
Namakkal District,
Crime No.581 of 2020

2.Saravana Kumar,
S/o.Thangavel

.. Respondents

(R2 suo motu impleaded as per order in
CrI.A.No.463 of 2020 dated 19.11.2020)

Prayer: Criminal Appeal filed under Section 14 A of the SC/ST (PoA) Act, 1989, to set aside the order passed by the Principal Sessions Judge, Namakkal in CrI.M.P.No.106 of 2020 dated 04.11.2020 dismissing the bail petition and release the appellant on bail in Crime No.581 of 2020.

For Appellant	:	Mr.Deepanuday
For R1	:	Mr.C.Iyyappa Raj Additional Public Prosecutor
For R2	:	No Appearance

JUDGMENT

The appellant, who is A2 in Crime No.581 of 2020 for the offence under Section 294(b), 341, 323, 324 506(ii) IPC r/w. 3(2) (va) of SC/ST (PoA) Amendment Act, 2015, has moved a bail petition in Crl.M.P.No.106 of 2020 before the Principal Sessions Court, Namakkal. The Trial Court by its order dated 04.11.2020, dismissed the bail petition. Aggrieved over the same the present appeal has been filed.

2. Notice was served to the second respondent/defacto complainant and affidavit of service has been filed on 24.11.2020. The learned Additional Public Prosecutor also served notice to the second respondent through the first respondent Police on 19.11.2020 and the copy of the same has been produced. Despite the same, there is no representation on behalf of the second respondent.

3.The gist of the case is that the defacto complainant, Saravanan is residing with his family and carrying out fishing work. He belongs to Scheduled Caste community. Since he lost his fishing net, he was in a depressed mood. On 07.10.2020, he went to TASMAL Shop to have liquor.

At that time, the appellant was consuming liquor along with his friends. Thereafter, fight arose between the appellant and his friends. The second respondent/defacto complainant interfered and tried to pacify them. At that time, the appellant and the other accused attacked the second respondent using coconut lead stalk, stones and by their hands and legs . They further threatened the accused and thereafter hit on his head. Due to which the second respondent sustained injury, admitted in Hospital and taken treatment as in-patient. After receiving the information from the Hospital the first respondent gone to hospital, recorded the statement from the second respondent and registered a case.

4.The contention of the learned counsel for the appellant is that the appellant and his friends were consuming alcohol. At that time, the second respondent who was in an inebriated mood picked up quarrel with the appellant and others and hence fight arose between them and there was push and pull. Due to which the second respondent fell down and sustained injuries. The appellant had not caused any injury to the second respondent. Further, the appellant was not aware about the caste, community and social status of the second respondent. The fight taken place in the wine shop and

it was not a premeditated and it was a sudden quarrel. The appellant was arrested and remanded in judicial custody from 08.10.2020 and the victim has been discharged from the Hospital. Hence, prayed for grant of bail to the petitioner.

5.The learned Government Advocate submitted that the second respondent belongs to Schedule Caste Community. He was consuming liquor in the wine shop. At that time, the appellant and other accused picked up quarrel and caused nuisance. When the second respondent questioned the same and attempted to separate them, the appellant and others who are in an inebriated condition assaulted the second respondent with stick, stone and by their hands and legs and hit on the head of second respondent, due to which he sustained injury. Thereafter, the second respondent admitted in hospital and took treatment as inpatient for 15 days and now he was discharged from the Hospital. The appellant and the second respondent residing in a same place and the appellant would be aware of the social status and community of the appellant. The appellant knowing about the caste and community of the second respondent assaulted him for no reason. Hence, he opposed for grant of bail to the appellant.

6.Considering the rival submission and perusal of the materials, it is seen that the occurrence took place in the wine shop, the appellant and his friends were consuming liquor and at that time they picked up a quarrel. Further, from the complaint it could be seen that there is nothing to show that the appellant attacked the second respondent for the reason of his social status and the fight seems to be a sudden one and not premeditated. The second respondent is discharged from hospital. In view of the same, this Court is inclined to grant bail for the appellant, subject the following conditions:

(a) the appellants shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) within a period of 15 days from the date of receipt of a copy of this order with two sureties each for a like sum to the satisfaction of the Principal Session Court, Namakkal District, failing which, the appeal for bail shall stand dismissed and on further condition that:

(b)the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy

of their Aadhar card or Bank pass Book to ensure their identity;

(c)the appellant shall report before the first respondent Police daily at 10.30 a.m., until further orders.

(d)the appellant shall not commit any offences of similar nature;

(e)the appellant shall not abscond either during investigation or trial;

(f)the appellant shall not tamper with evidence or witness either during investigation or trial;

(g)on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]***;

(h)if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

6.In view of the above, the order made in Crl.M.P.No.106 of 2020 by the Principal Sessions Court, Namakkal is hereby set aside and this Criminal Appeal is allowed.

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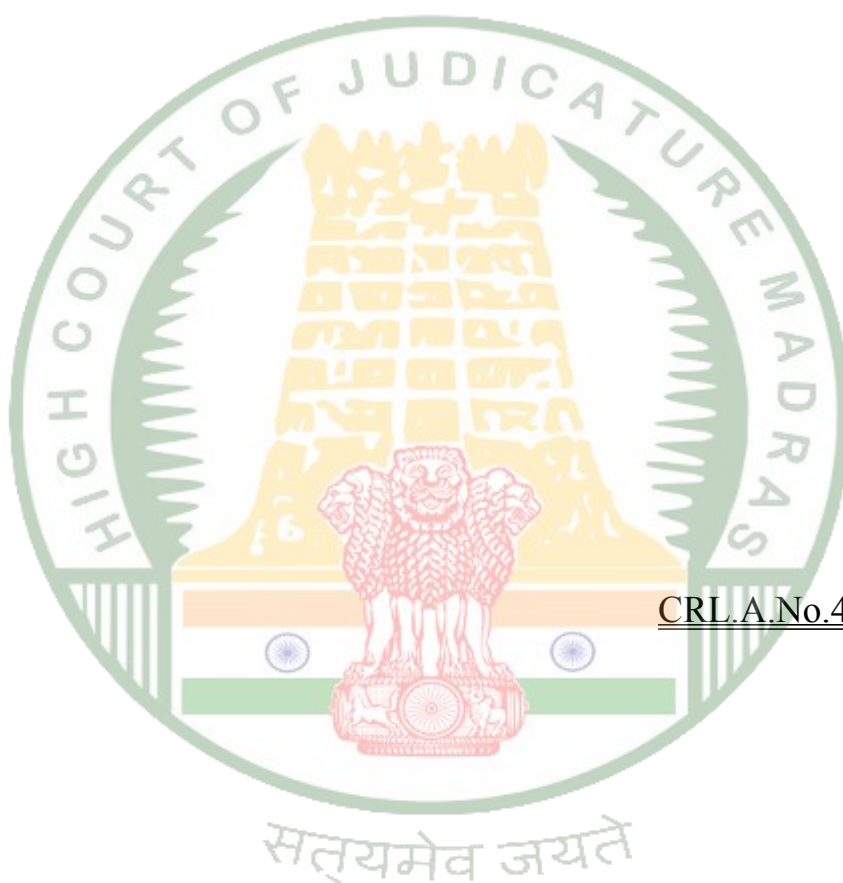
- 1.The Principal Session Court,
Namakkal District.
- 2.The Central Prison, Salem.
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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CRL.A.No.463 of 2020

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