



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 07.08.2020

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. A. (MD)No.239 of 2020

Vinester .. Appellant /Petitioner/Accoused No.1

Vs.

1.The Deputy Superintendent of Police,
Nagercoil,
Kanyakumari District.

2.The Inspector of Police,
Asaripallam Police Station,
Kanyakumari District.1st and 2nd Respondents/Respondents/
(Crime No.151 of 2020) Complainant

3.Gunasekar ..3rd Respondent/Respondents/Defacto
Complainant

Prayer : This criminal appeal is filed under Section 14A(2) of SC/ST (POA) Amended Act, 2016, to set aside the order dated 20.07.2020 made in Cr.M.P.No.1008 of 2020 on the file of the learned II Additional District and Sessions Judge (F.A.C.), Tirunelveli (IV Additional Sessions Judge, Tirunelveli) and enlarge the appellant on bail.

For Appellant	: Mr.S.Muthalraj
For Respondents 1 and 2	: Mr.K.Dinesh Babu, Additional Public Prosecutor
For R3	: Mr.T.Thirumurugan

ORDER

This Criminal Appeal has been filed to set aside the order dated 20.07.2020 made in Cr.M.P.No.1008 of 2020 on the file of the learned II Additional District and Sessions Judge (F.A.C.), Tirunelveli (IV Additional Sessions Judge, Tirunelveli) and enlarge the appellant on bail.

2. Heard the learned counsel for the appellant and the learned Additional Public Prosecutor for the respondents 1 and 2 and the learned counsel for the third respondent.



3. The case against the appellant is that on 02.05.2020, the appellant assaulted the victim viz., Jeniston and threatened the defacto complainant. On 03.05.2020, a case was registered against the appellant under Sections 294(b), 302, 506(ii) of I.P.C and Section 3(1) (r), 3(1)(s), 3(2)(va) SC/ST (PoA) Act, and the appellant is in custody from 04.05.2020. Hence, the appellant filed a bail petition before the learned II Additional District and Sessions Judge (F.A.C.), Tirunelveli in Cr.M.P.No.1008 of 2020. That petition was dismissed on 20.07.2020. Against the dismissal order, the appellant come forward with this Criminal Appeal.

4. On the side of the appellant, it is stated that the appellant is in custody for the past 93 days. A false case has been foisted against the appellant and the appellant is ready to abide any condition to be imposed by this Court and prayed the Appeal to be allowed.

5. On the side of the prosecution, it is stated that the offence is grave in nature, but, the learned Additional Public Prosecutor fairly admit that the appellant is in custody for the past 93 days and that charge sheet is yet to be filed.

6. Mr.T.Thirumuguan, learned counsel for the third respondent has stated that the appellant's father is threatening the witness and there is a likelihood of the appellant to interfere in the investigation and he objected to the release of the appellant.

7. It is seen that the appellant is already in custody for the past 93 days and admittedly no charge sheet was filed sofar. In the above circumstances, the appellant is entitled for a statutory bail.

8. Hence, the Criminal Appeal is allowed and the Appellant is ordered to be released on bail, subject to the following conditions:

- (i) the appellant shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the II Additional District and Sessions Judge (F.A.C.), Tirunelveli (IV Additional Sessions Judge, Tirunelveli);
- (ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the II Additional District and Sessions Judge (F.A.C.), Tirunelveli (IV Additional Sessions Judge, Tirunelveli) may obtain a copy of their



Aadhar Card or Bank Pass Book to ensure their identity.

(iii) The appellant should not interfere in the investigation;

(iv) The appellant should co-operate with the respondent for investigation;

(v) The appellant should reside in Thoothukudi District and not to enter in Tirunelveli District.

(vi) On release, the appellant shall appear before the Thoothukudi Town Police Station daily twice ie. 10.00 a.m and 05.00 p.m :

(vii) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the appellant in accordance with law as if the conditions have been imposed and the appellant 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]**.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Ls

Note : In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The II Additional District and Sessions Judge (F.A.C.),
Tirunelveli (IV Additional Sessions Judge, Tirunelveli)



2.The Deputy Superintendent of Police,
Nagercoil,
Kanyakumari District.

3.The Inspector of Police,
Asaripallam Police Station,
Kanyakumari District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

5. Copy to:

The Inspector of Police,
Thoothukudi Town Police Station,
Thoothukudi District.

+1 CC to Mr.NA. PALANIYANDI, Advocate (SR-13852[F]dated
07/08/2020)

Crl. A.(MD)No.239 of 2020
07.08.2020

VB (07.08.2020) 4P 7C