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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2021

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THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CRL.A.No.430 of 2021

Harish @ Pachamuthu

....Appellant

.Vs.

1. State Rep.by its
The Inspector of Police,
Omalur Police Station,
Salem District,
Crime No.117 of 2017.

2. Thangadurai

.. Respondents

Criminal Appeal filed under Section 14-A(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act 1989 as amended by Act 1/2016 to call for the records pertaining to the bail dismissal order passed by the learned Principal Sessions Judge, Salem in Crl.M.P.No.3131 of 2021 dated 08.09.2021 and set aside the same and to enlarge the petitioner on bail.

For Appellant : Mr.C.Deepak Kumar

For Respondents : Mr.S.Sugendran
Government Advocate (Crl.Side)
for R1

J U D G M E N T

This Criminal Appeal has been filed against the order dated 08.09.2021 in Crl.M.P.No.3131 of 2021 passed by the learned Principal Sessions Judge, Salem.

2.The case of the prosecution is that on 25.02.2017 at about 5.30 p.m. the accused was plucking mangoes in the garden of KMB company, where the defacto complainant is working as a watchman and while his sister one Dhanalakshmi questioned the same, the



accused abused them in filthy language by using caste name and also assaulted and threatened them with dire consequences.

3.Hence, the respondent/police registered a case in Crime No.117 of 2021 against the appellant for the offence under Sections 294(b), 324, 506(ii) IPC r/w Section 3(1)(r), 3(1)(s) and 3(2)(va) of SC and ST(POA) Amendment Act, 2016 and he was arrested and remanded to judicial custody on 26.08.2021. Subsequently, the appellant filed a petition under Section 439 Cr.P.C before the learned Principal Sessions Judge, Salem seeking to release him on bail, which was dismissed on 08.09.2021. Challenging the same the appellant is before this Court.

4.The learned counsel for the appellant would submit that during the trial in Spl.S.C.No.210 of 2018, the appellant was regularly appeared before the trial Court. On 24.02.2020, he was unable to appear before the Court, due to his ill health and hence, a Non Bailable Warrant was issued against him and he was arrested and remanded to judicial custody on 26.08.2021. Hence, prayed for grant of bail.

5.The learned Government Advocate (Crl.Side) appearing for the first respondent would submit that the petitioner was arrayed as Accused No.1 in Crime No.117 of 2017. After investigation the respondent police had filed the charge sheet and the same was taken on file in Spl.S.C.No.210 of 2018. At the time of furnishing copies, the petitioner was absconded and hence, the Non Bailable Warrant was issued against him. After issuance of Non Bailable Warrant, the respondent police could secure the petitioner only after 1 ½ years i.e. on 26.08.2021. At this stage, if bail is granted, it will derail the progress of trial. Hence, he vehemently objected to the grant of bail to the appellant.

6.Heard the learned counsel for the appellant and the learned Government Advocate (Crl.Side) for the first respondent and also perused the materials available on record.

7.It is seen from the records and the submissions made by the learned counsel on either side that due to non-appearance of the appellant during trial, the Non Bailable Warrant was issued against him and he was arrested and remanded to judicial custody after 1 ½ years. Under these circumstances, this Court is of



the opinion that if the appellant is released on bail again there are more chances of him getting absconded again and the case would be protracted thereby.

8. In view of the above, this Court is not inclined to grant bail to the appellant. Accordingly, this Criminal Appeal is dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Sessions Judge,
Salem.
2. The Superintendent,
Central Prison, Salem.
3. The Inspector of Police,
Omalur Police Station,
Salem District.
4. The Public Prosecutor,
High Court, Madras.

CRL.A.No.430 of 2021

JP-II (CO)
K.RK. (30.09.2021)