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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.A.NO.582 OF 2021

Palanivel
S/o, Ayyamperumal

... Appellant/Petitioner/
Accused No.3

Versus

1. The State Represented by
The Deputy Superintendent of Police,
Attur, Salem District.

2. The Inspector of Police,
Thalaivasal Police Station,
Salem District.

3. S.Poovarasam,
S/o, Not known

... Respondents/Complainants/
Defacto Complainants

PRAYER:-

Criminal Appeal filed under Section 14(A)(2) of SC/ST Act 1989, to set aside the order passed by the learned Sessions Judge, Salem, Salem District, in Crl.M.P.No.4344 of 2021 dated 10.11.2021 and enlarge the appellant on bail in Crime No.455 of 2021 pending on the file of the Inspector of Police, Thalaivasal Police Station, Salem

For Appellant : Mr.E.Kannadasan

For R1 & R2 : Mr.S.Sugendran
Government Advocate (Crl.Side)

For R3 : Mr.A.Ramesh



JUDGMENT

This Criminal Appeal has been filed against the order of dismissal of the bail application dated 10.11.2021 passed in CrI.M.P.No.4344 of 2021 on the file of the learned Principal Sessions Judge, Salem.

2. Brief facts of the prosecution case as per the defacto complainant Poovarasan, who is a Camp Secretary of Viduthalai Siruthaikal Kathci, is that on 22.10.2021 he had gone to the salon run by the accused and when he had asked him to cut his hair, the accused had abused him by calling his caste name and refused to cut his hair and sent him out of the shop. Based on the complaint given by the defacto-complainant, case in Crime No.455 of 2021 was registered by the second respondent police for the offences under sections 3(1)(s), 3(1)(za)(D) of the SC/ST(Prevention of Atrocities Act) 2015. The appellant was arrested on 25.10.2021 and remanded to judicial custody on the next day. The appellant has filed CrI.M.P.No.4344 of 2021 before the learned Principal Sessions Judge, Salem and the learned Judge, by an order dated 10.11.2021, had dismissed the application, against which the present Criminal Appeal has been filed.

3. Learned counsel for the appellant would submit that the appellant is an innocent person and he has been falsely implicated in this case and the appellant has been running a salon along with one Annakili and they have been servicing the customers irrespective of their community. He would further submit that the defacto complainant belongs to a particular political party and due to political enmity, a false complaint has been given against him. The appellant was arrested on the basis of the false complaint on 25.10.2021 and he is in custody for more than a month. He would submit that major part of the investigation is over and thereby he prayed for grant of bail.

4. Mr.S.Sugendran, learned Government Advocate (Criminal Side) appearing for the respondents 1 and 2 would submit that the defacto complainant is the Camp Secretary of VCK party and on 22.10.2021, at about 6 pm, he had gone to the saloon run by the accused. The accused finding that the defacto complainant belongs to SC community, had refused to cut his hair and also abused him calling his caste name. Hence the appellant was arrested on 25.10.2021 and remanded to judicial custody on the next day and investigation is pending.



5. Mr.A.Ramesh, learned counsel appearing for the third respondent/defacto complainant vehemently opposed to grant bail to the accused.

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6. Heard the counsels.

7. Taking into consideration of the facts and the submissions made by both the counsel, this Court is inclined to grant bail to the appellant/accused. In the result, the order dated 10.11.2021 passed in Crl.M.P.No.4344 of 2021 on the file of the learned Principal Sessions Judge, Salem is set aside and the Criminal Appeal is allowed.

8. Accordingly, the appellant is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties, each for a like sum to the satisfaction of the learned Principal Sessions Judge, Salem, and on further conditions that:

(a) 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;

(b) the appellant on their release from prison shall stay at Salem and report before the Salem Town Police Station, daily at 10.30 a.m. until further orders. The appellant shall not leave the jurisdictional limits.

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

(d) the appellant shall not abscond during trial;

(e) the appellant shall not tamper with evidence or witness during trial;

(f) on breach of any of the aforesaid conditions, the learned Judicial 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];

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

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Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mfa

To

1. The Principal Sessions Judge,
Salem.
2. The Judicial Magistrate No.II,
Attur.
3. The Deputy Superintendent of Police,
Attur, Salem District.
4. The Inspector of Police,
Thalaivasal Police Station,
Salem District.
5. The Public Prosecutor,
High Court, Madras.
6. The Record Keeper,
Criminal Section (Records),
High Court, Madras.

Copy To:-

The Superintendent,
District Prison,
Attur.

+1cc to Mr.E.Kannadasan, Advocate, S.R.No.64101

CRL.A.NO.582 OF 2021

SR(CO)
PBS/07/12/2021