



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 30.11.2021.

CORAM

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

Crl.A.No.570 of 2021

Mohan Sandhosh Durai

... Appellant/Accused

vs.

State represented by

1. The Deputy Superintendent of Police,
DSP Office, Pennagaram Police Station,
Pennagaram,
Dharmapuri District.

2. The Inspector of Police,
Pennagaram Police Station,
Dharmapuri District.
(Crime No.422 of 2021)

... Respondent/Complainant

3. Kumar
S/o.Arumugam

... Respondent/Defacto Complainant

Criminal Appeal filed under Section 14(A) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, to set aside the order dated 02.11.2021 in Cr.M.P.No.1781 of 2021, on the file of the learned Principal Sessions Judge, Dharmapuri and enlarge the appellant on bail in Crime No.422 of 2021 on the file of the Respondent Police.

For Appellant : Mr.N.Ponraj

For Respondents 1 and 2 : Mr.S.Sugendran
Govt. Advocate (Crl.Side)

For Respondent No.3 : No appearance.

JUDGMENT

The Appeal has been filed against the dismissal of the bail application in Crl.M.P.No.1781 of 2021, dated 02.11.2021 passed by the learned Principal Sessions Judge, Dharmapuri.



2. The appellant, sole accused in the case in Crime No.422 of 2021 had been arrested by the Respondent Police for the offence under Sections 294(b), 324, 341 & 506(ii) IPC read with Section 3(1)(r), 3(1)(s), 3(2)(va) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 registered by the respondent on the complaint of one Kumar. The appellant was arrested on 22.9.2021.

3. The case of the prosecution is as under:-

The de facto complainant is a resident of Chekkumedu Village and that he has got two sons and two daughters and that he is working as a driver in a School. His son Ilantamil and one Pandian are neighbours and that his son is working as Cleaner in the Tata Ace driven by Pandian. Whiles, the said Pandian had eloped with one Renuka on 20.9.2021. The accused, who had suspected that the de facto complainant's son Ilantamil had helped the said Pandian in the elopement, had gone to his house and abused him calling his caste name and assaulted him with iron rod causing fracture in his ankle. By that time, the neighbours had intervened and separated, however, the accused had threatened to do away with him and thereby, the de facto complainant had lodged a complaint and as a result, the appellant/accused was arrested by the respondent police. The appellant had filed a CrI.M.P.No.1781 of 2021 seeking for bail before the Principal Sessions Judge, Dharmapuri and the Court, by order dated 2.11.2021, dismissed the bail application against which the present Appeal has been filed.

4. Mr.N.Ponraj, learned counsel appearing for the appellant submitted that it is a case and counter case. He would submit that the de facto complainant's son Ilantamil and his friend Pandian had kidnapped the sister of one Vinoth, who is a relative of the appellant and when the said Vinoth had gone to the house of the de facto complainant on 21.9.2021 in search of his sister, the de facto complainant had assaulted him with iron rod and thereby the said Vinoth had sustained injuries and had been admitted in the Government Hospital, Pennagaram. He would also submit that the appellant being a Law Student and relative of Vinoth, had preferred a complaint against the de facto complainant and his family members in respect of which a case in Crime No.421 of 2021 was registered by the respondent. He would submit that in the said earlier incident, the de facto complainant had also sustained injuries and taking advantage of that, the de facto complainant had foisted a complaint against the appellant. He would further submit that the present complaint has been given only to prevent the appellant from helping the family members of Vinoth.



5. The learned counsel for the appellant further submitted that the appellant had been in custody from 22.9.2021 and the de facto complainant has been discharged on 13.10.2021. He would further submit that the appellant has no previous case against him and the present complaint is only an offshoot against the earlier complaint given by him.

6. Mr.S.Sugendran, learned Government Advocate (Criminal Side) appearing for respondents 1 and 2 would submit that the appellant is a relative of one Vinoth and the said Vinoth's sister Renuka had eloped with one Pandian. Suspecting that the son of the de facto complainant had assisted the said Pandian in the elopement, the accused had gone to the house of the de facto complainant and abused him by calling by his caste name and had also assaulted him with an iron rod due to which, the de facto complainant had suffered a fracture in his right ankle. He would further submit that the de facto complainant has been discharged from the Hospital on 13.10.2021. He would submit that the appellant is a Law College Student and that he has no previous cases against him.

7. Despite service of private notice to the third respondent and his name being printed in the cause list, there is no appearance for the third respondent.

8. Taking into consideration the submissions that it is a case and counter case and that the victim has also been discharged from the Hospital, this court is inclined to grant bail to the appellant. The appellant is directed to be released on bail on the following conditions:-

- i. The appellant shall execute 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 Principal Sessions Judge, Dharmapuri.
- ii. the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Judge may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity.
- iii. The appellant, on his release from prison, shall stay at Dharmapuri and report before the Dharmapuri Town Police Station everyday at 6.30 pm for a period of two weeks and thereafter before the second respondent police on every Monday at 6.30 pm until



further orders.

iv. The appellant shall not commit any offences of similar nature.

v. The appellant shall not abscond during trial.

vi. The appellant shall not tamper with evidence or witness during trial.

vii. 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).

viii. If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

9. In the result, the Criminal Appeal stands allowed and the order passed by the Principal Sessions Judge, Dharmapuri is set aside.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

ssk/ham

To

1. The Principal Sessions Judge,
Dharmapuri District.
2. The Deputy Superintendent of Police,
DSP Office, Pennagram Police Station,
Pennagaram,
Dharmapuri District.
3. The Inspector of Police,
Pennagram Police Station,
Dharmapuri District.



4. The Superintendent,
Central Prison, Salem.

5. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.Ponraj, Advocate, S.R.No.62408

Cr1.A.No.570 of 2021

MG(CO)
SU(01/12/2021)