



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.D. JAGADISH CHANDIRA

Crl.A.No.600 of 2021

M. Deva

.. Appellant/A2

Vs.

1. The Assistant Commissioner of Police,
Avadi,
Tiruvallur District.

2. State Rep by,
The Inspector of Police,
T-6, Avadi Police Station,
Tiruvallur District.
Crime No.2005 of 2021.

3. M.Balaji

.. Respondents/Complainant/
Defacto Complainant

PRAYER: The Criminal Appeal is filed under Section 14 A(2) of SC/ST (POA) Amended Act, to set aside the order passed in Crl.M.P. No.5049 of 2021 dated 17.11.2021 on the file of Principal District & Sessions Judge, Thiruvallur District and enlarge the Appellant on bail in Crime No.2005 of 2021 on the file of respondent police.

For Appellant : Mr.T.Arivarasan

For Respondents : Mr. S.Sugendran for R1& R2
Government Advocate(Crl.Side)
Mr.K.Balaji for R3

J U D G M E N T

This Criminal Appeal has been filed against the dismissal of the bail application by the learned Principal District and Sessions Judge, Tiruvallur in Crl.M.P. No.5049 of 2021 dated 17.11.2021.

2. The case of the prosecution as per the defacto complainant is that on 04.11.2021, at about 08.30 p.m., while he was going in his car to his relatives house, 15 persons had



blocked the road in inebriated condition and were bursting crackers. They have waylaid the vehicle of the defacto complainant and they have called him by his caste name and threatened him saying that he should not come through their way by having a party flag in the vehicle and saying so, they have assaulted him and also caused damage to his car and also damaged the windshield of the car. On the complaint given by the defacto complainant, a case in Crime No.2005/2021 was registered by the respondent for the offences under sections 147, 341, 294 (b), 324, 427 I.P.C. and 3(1)(r) and 3(1)(s) of the SC/ST, Prevention of Atrocities Act, 1989. He would further submit that the appellant was arrested on 05.11.2021 and remanded to the judicial custody on the same day. The appellant had filed an application for bail in Crl.M.P.No.5049 of 2021 before the learned Principal District and Sessions Judge, Tiruvallur and the learned Judge was pleased to dismiss it on 17.11.2021, against which, the present appeal has been filed.

3.Learned counsel for the appellant would further submit that the appellant is innocent and has been falsely implicated in this case. He would further submit that the appellant along with his villagers were celebrating Diwali and bursting crackers and at that time, the defacto complainant had driven the vehicle in a rash and negligent manner in the village and when it was questioned by them, false complaint has been given. He would further submit that even as per the complaint, the occurrence is stated to have taken place on Diwali day, while the accused was stated to have been bursting crackers. The defacto complainant belongs to a particular political party and he has falsely implicated the appellant and others using his political influence. He would further submit that the appellant is in custody from 05.11.2021 and that major part of the investigation is also over.

4.The respondents 1 and 2 filed counter affidavit. Mr.S.Sugendran, learned Government Advocate (Crl.Side) appearing for the first and second respondents would submit that the defacto complaint belongs to a political party and he had driven the vehicle with his party flag on the vehicle. The accused, coming to know that the defacto complainant belongs to a particular political party and community, had waylaid him, abused him by calling his caste name and have assaulted him and also caused damage to the vehicle. He would further submit that the appellant was arrested on 05.11.2021 and remanded to the judicial custody. The other accused have absconded and the respondent is taking steps to secure them.

5.Mr.K.Balaji, learned counsel appearing for the intervenor/defacto complainant would submit that the defacto complainant is a well known person in the area. He belongs to



schedule caste community and also functionary of a political party. The accused knowing well that the defacto complainant belongs to the particular community and the party, had waylaid him and abused him by calling his caste name and also caused severe damage to the vehicle. He would further submit that the value of the damage of the car is more than Rs.25,000/-.

6. At this juncture, Mr.Vignesh, learned counsel for the appellant would submit that the appellant without prejudice to his contentions is prepared to deposit Rs.10,000/- and he has no objection in the amount being paid to the defacto complainant.

7. Heard the learned counsel for the appellant, the learned Government Advocate (crl side) appearing for the first and second respondents and the learned counsel for the third respondent/defacto complainant and perused the materials available on record.

8. Taking into consideration the facts and submissions that the appellant has been arrested on 05.11.2021 and the investigation is also pending, this Court is of the opinion that the appeal can be allowed and the bail can be granted to the appellant.

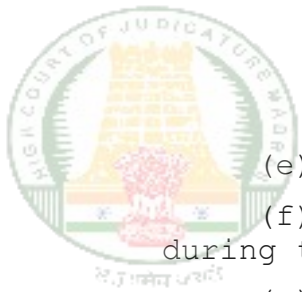
9. In view of the above, the order dated 17.11.2021 passed in CrI.M.P. No.5049 of 2021 stands set aside and the Criminal Appeal stands allowed and this Court is inclined to grant bail to the appellant/accused.

(a) Accordingly, the appellant is ordered to be released on bail on condition to execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties, each for a like sum to the satisfaction of the learned Principal District and Sessions Judge, Thiruvallur District and on further conditions that:

(b) the appellant shall deposit Rs.10,000/- (Rupees Ten Thousand only) to the credit of Crime No.2005 of 2021 and the amount shall be disbursed to the defacto complainant by the concerned court.

(c) 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;

(d) the appellant on his release from prison shall stay at Cuddalore and appear before Cuddalore O.T Police station, everyday at 10.30 a.m. until further orders. The appellant shall not enter into the jurisdictional limits of the respondent police station.



(e) the appellant shall not abscond during trial;

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

(g) 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];

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

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vri/shk

Copy to

1. The Principal District & Sessions Judge,
Thiruvallur District.
2. The Assistant Commissioner of Police,
Avadi, Tiruvallur District.
3. The Inspector of Police,
T-6, Avadi Police Station,
Tiruvallur District.
4. The Public Prosecutor, High Court, Madras.
5. The Inspector of Police, O.T.Police Station,
Cuddalore.
6. The Record Keeper, Criminal Section (Records),
High Court, Madras.
7. The Superintendent, Sub Jail,
Poonamallee.

+1cc to Mr.K.Balaji, Advocate, S.R.No.65496

CrI.A.No.600 of 2021

NMI (CO)
KM(09/12/2021)