



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2021

CORAM:

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

Criminal Appeal No.625 of 2021

Selvam

... Appellant/Accused

..Vs..

1. The Deputy Superintendent of Police,
Vanapuram Police Station,
Thiruvannamalai District.
Crime No.495 of 2021.
2. State By.
The Sub-Inspector of Police,
Vanapuram Police Station,
Thiruvannamalai District.
Crime No.495 of 2021. ...1st and 2nd Respondents/Complainants
3. Perumal ... 3rd Respondent/Victim

PRAYER: Criminal Appeal filed under Section 14A(2) of Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Amendment Act 1989, to set aside the order passed in CrI.M.P.No.913 of 2021 and dated 24.11.2021 and enlarge the appellant on bail in Crime No.495 of 2021 on the file of the Inspector of Police, Vanapuram Police Station, Thiruvannamalai District.

For Appellant : Mr.S.Silambu Selvan

For Respondents : Mr.S.Sugendran for R1 & R2
Government Advocate (CrI. Side)
R3-No appearance.

O R D E R

This Criminal appeal has been filed against the dismissal of the bail application in CrI.M.P.No.913 of 2021 dated 24.11.2021 by the Special Court for Trial of Cases Under SC/ST (POA) Act, Tiruvannamalai.



2.The brief facts of the prosecution as per the defacto complainant, Perumal is that he belongs to Hindu Adi Dravidar Community. One Venkatesh, Kulanthai, Ranganathan and Dhanapal who belong to Sadhakuppam Panchayat, belong to Vanniyar community. On 04.11.2021 prior to Diwali at 3.30p.m, one Dhanush had driven a two wheeler in a rash and negligent manner inside the area belonging to the Scheduled caste community. When it was questioned by the persons in that area, he had abused the persons calling them by their caste name and there was a quarrel. Subsequently, the persons belonging to Vanniyar Community had called the defacto complainant for conducting the panchayat and when he had gone there, they had abused the defacto complainant by calling his community name and had humiliated him and thereafter, about 200 persons belonging to the vanniyar community came to the area belonging to the Scheduled caste community and had caused damage to the house by breaking the doors and windows by stick. Thereby, a complaint had been given on 07.11.2021 at 10.00 hrs and based on the complaint given by the defacto complainant, a case was registered in Crime No.495 of 2021 for the offences under Section 147, 148, 294(b), 427 IPC r/w 3(1)(g) of SC/ST POA Act-2015. The appellant was arrested on 08.11.2021 and he had been remanded to the judicial custody on the same day. The appellant had filed the CrI.M.P.No.913 of 2021 for bail and the Trial Court by order dated 24.11.2021, had dismissed the bail application against which, the present appeal has been filed.

3. Learned counsel appearing for the appellant/appellant would submit that there had been a quarrel between one Dhanush and members belonging to the Scheduled caste community on account of the said Dhanush having driven the vehicle in a rash and negligent manner and thereafter, a panchayat had been conducted and as per the defacto complainant, during the panchayat, the persons belonging to Vanniyar community were stated to have humiliated the defacto complainant and subsequently, they have gone to the area belonging to the Scheduled caste community and caused damages to the houses. He would further submit that though the incident was happened on 04.11.2021, there had been delay of 3 days in giving the complaint. Though the defacto complainant has specifically named the persons, the name of the appellant/appellant is not found in the F.I.R. The appellant was arrested on 08.11.2021 and he is in custody for more than 45 days. He would further submit that major part of the investigation is also over and there is absolutely peace between the two groups and nobody is stated to have been injured in the incident and thereby, he would seek for bail.



4. Mr. S. Sugendran, learned Government Advocate (crl.side) appearing for the respondent would submit that the appellant belongs to the vanniyar community and on 04.11.2021, at about 03.30 p.m. one Dhanush had driven the two wheeler in the scheduled caste community area in a rash and negligent manner and when the people around him had questioned him, he had abused the people with filthy language calling them by their community name and thereafter, during panchayat, the persons belonging to the vanniyar community had abused the defacto complainant and the persons belonging to his community. Later, they have also caused damage to the houses belonging to the SC community. He would further submit that there are totally 16 accused and only the appellant has been arrested and the other accused have not been secured so far and they are absconding.

5. Though notice was served on the third respondent, there is no representation for the defacto complainant and his name is printed in the cause list.

6. Heard both sides and perused the materials available on record.

7. Taking into consideration of the case and taking into consideration the appellant is in custody for more than 45 days, the criminal appeal is allowed. The order passed in CMP No.913 of 2021 on the file of the Special Court for Trial of Cases Under SC/ST (POA) Act, Tiruvannamalai. is set aside.

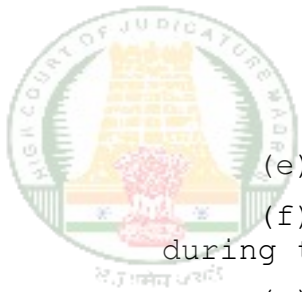
8. In view of the above, this Court is inclined to grant bail to the appellant/accused on the following conditions:

(a) 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 Special Court for Trial of Cases Under SC/ST (POA) Act, Tiruvannamalai and on further conditions that:

(b) 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;

(c) the appellant on their release from prison shall report before the respondent police daily at 10.30 a.m. until further orders. The appellant shall not enter into the jurisdictional limits of the respondent police.

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



(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 appellants in accordance with law as if the conditions have been imposed and the appellants 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

To

1. Special Court for Trial of Cases Under SC/ST (POA) Act,
Tiruvannamalai.
2. The Deputy Superintendent of Police,
Vanapuram Police Station,
Thiruvannamalai District.
3. The Sub-Inspector of Police,
Vanapuram Police Station,
Thiruvannamalai District.
- 4.The Public Prosecutor (Crl side),
High Court, Madras.

Copy to

The Section officer,
Criminal Section,
High Court, Madras.

+1c to Mr.S.Silambu Selvan, Advocate Sr.68989

Crl. A. No.625 of 2021

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srg 22/12/2021