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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 03.02.2021

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. A.(MD)No.30 of 2021

Akkammal

.. Appellant

Vs.

1.State rep. By,
The Deputy Superintendent of Police,
Periyakulam Range,
Theni District.

2.The Inspector of Police,
Periyakulam Police Station,
Theni District.
(Crime No.1712 of 2020)

3.Aravindan

.. Respondents

Prayer : This Criminal Appeal is filed under Section 14(A) (1) of the The Schedule Castes and Tribes Prevention of Atrocities Act, 2015 as amended by Act 1 of 2016, to call for the records pertaining to the order passed in Cr.M.P.No.462 of 2020 in Crime No.1712 of 2020 on the file of the Special Court for Trial of Cases under SC/ST (POA) Act, Theni dated 31.12.2020 and to set aside the same as illegal and enlarge the Appellant on bail by allowing the Appeal.

For Appellant : Mr.K.Sivabalan

For Respondents 1 and 2: Mr.Bharathi Kannan
Government Advocate

For 3rd Respondent : Ms.P.Kalaiarasi Bharathi

JUDGMENT

This appeal has been filed to set aside the order passed in Cr.M.P.No.462 of 2020 in Crime No.1712 of 2020 dated 31.12.2020, on the file of the Special Court for Trial of Cases under SC/ST (POA) Act, Theni.



2.The case against the appellant is that there is a dispute between two group of people, belong to two different communities. On 14.11.2020 at about 18.30 hours, the complainant fired crackers infront of the appellant's shop. The appellant insulted the defacto complainant by mentioning his caste name and she called upon A2 through phone. A2 came to the spot with other accused and A2 to A7 attacked the defacto complainant and his father with their bare hands. The father of the defacto complainant died on the spot. A case was registered against the appellant and others in Crime No.1712 of 2020 for the offence under Sections 147, 294(b), 323, 302, 109 of IPC and Sections 3(1)(r), 3(1)(s) of SC/ST (POA) Amendment Act and Section 3(2)(v) of SC/ST (POA) Act and the appellant was arrested by the respondent police. Subsequently, the appellant filed a bail petition in Cr.M.P.No.462 of 2020 before the Special Court for Trial of Cases under SC/ST (POA) Act, Theni. The learned Judge dismissed the petition. Against which, the appellant preferred the appeal before this Court.

3.On the side of the appellant, it is stated that there is no specific overt act against the appellant. No weapon was used by the accused. All the other accused were granted anticipatory bail. There is no external or internal injury on the body of the deceased. The appellant is in custody for the past 78 days and she is having four years old female child, which was left in the custody of the neighbours and prayed the petition to be allowed.

4.On the side of the respondents 1 and 2, it is stated that the appellant is running a petty shop and on the date of Diwali, the complainant fired crackers infront of the shop. The appellant who is the prime accused in the case, called the other accused to the spot and they attacked the defacto complainant and prayed the appeal to be dismissed.

5. Ms.P.Kalaiarasi Bharathi, learned counsel, undertake to appear for the third respondent. But, he did not file vakalat for the third respondent.

6.It is seen that the appellant is in custody for the past 78 days. No charge sheet was filed sofar. Considering the circumstances of the offence and considering the fact that no weapon was used by the appellant and the appellant has to take care of her female minor child, this Court is inclined to grant bail to the appellant. Hence, the Criminal Appeal is allowed and the Appellant is ordered to be released on bail, subject to the following conditions:

- (i) the appellant shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the



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satisfaction of the Special Court for Trial of Cases under SC/ST (POA) Act, Theni.

- (ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Special Court for Trial of Cases under SC/ST (POA) Act, Theni, may obtain a copy of any valid identity proof to ensure their identity.
- (iii) On release, the appellant shall appear before the second respondent daily at 10:30 a.m, until further orders.
- (iv) the appellant shall not tamper with evidence or witness either during investigation or trial.
- (v) the appellant shall cooperate with the investigation and the appellant shall appear before the second respondent and Court both during investigation and trial, as and when required.
- (vi) On breach of any of the aforesaid conditions, the 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 Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Special Court for Trial of Cases under SC/ST (POA) Act,
Theni

2. The Deputy Superintendent of Police,
Periyakulam Range,
Theni District.

3.The Inspector of Police,
Periyakulam Police Station,
Theni District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

5.The Superintendent,
Central Prison for Women,
Madurai.

+1 CC to M/s.K.SIVABALAN, Advocate (SR-3148[F] dated 03/02/2021)

Crl. A. (MD)No.30 of 2021

03.02.2021

SV2 (CO)

NR (04/02/2021) 4P : 7C