



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 11.03.2021

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl.A.(MD)No.88 of 2021

Kannan

.. Appellant

Vs.

1.The State represented by its,
The Deputy Superintendent of Police,
Oddanchathram Sub Division,
Dindigul District.

2.The State Rep by its
The Inspector of Police,
Ambilikkai Police Station,
Dindigul District.
Crime No.925 of 2020.

3.Chandra

.. Respondents

Prayer : This Criminal Appeal filed under Section 14A(2) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 as amended by Act 1 of 2016, to call for the records relating to the impugned order dated 21.01.2021 made in Cr.M.P.No.30 of 2021 in Spl.S.C.No.53 of 2020 on the file of the learned Special Court for exclusive trial of cases under SC/ST (POA) Act, Sessions Judge, Dindigul District, Dindigul and to set aside the same and consequently to release the petitioner on bail in connection with the FIR in Crime No.925 of 2020, pending trial on the file of the learned Special Court for exclusively trial of cases under SC/ST (POA) Act, Sessions Judge, Dindigul District, Dindigul.

For Appellant	: Mr.S.Sarvagan Prabhu
For Respondents 1 and 2	: Mr.K.R.Bharathi Kannan
	Government Advocate (Crl. Side)

JUDGMENT

This appeal has been filed to set aside the order passed in Cr.M.P.No.30 of 2021 dated 21.01.2021, on the file of the learned Sessions Judge, Special Court for exclusively trial of cases under SC/ST(POA) Act, Dindigul and to grant bail to the appellant.



2.The case against the appellant is that the son of the defacto complainant was found dead on 25.08.2020. On the complaint of the defacto complainant, a case was registered in Crime No.925 of 2020 under Section 302 of IPC. Subsequently, the same was altered into Section 302 of IPC r/w. Section 3(2)(v) of SC/ST (POA) Act. The appellant is in custody from 26.08.2020. Hence, the appellant has filed a bail petition before the learned Sessions Judge, Special Court for exclusively trial cases under SC/ST (POA) Act, Dindigul in Cr.M.P.No.276 of 2020 and the same was dismissed on 23.10.2020. Against the dismissal order, the appellant came forward with an appeal in Crl.A.(MD)No.324 of 2020 before this Court and that appeal was dismissed on 10.12.2020. Again the appellant has filed the present appeal for bail.

3.On the side of the appellant, it is stated that only based on extra judicial confessional statement of accused persons and based on circumstantial evidence, the appellant was roped into the case. The appellant was also a member of SC/ST community. He was arrested on 26.08.2020 and is in custody for the past 190 days. The bail already granted to A2 was cancelled and he is in custody now. The investigation was over and prayed the appellant to be released on bail.

4.On the side of the respondents 1 and 2, it is stated that the investigation was over, charge sheet was filed and the same was taken on file as Special S.C.No.53 of 2020. A2 was released on bail by the learned Principal Sessions Judge, Dindigul in Crl.M.P.No.1241 of 2020, without mentioning the offence under Section 3(2)(v) of SC/ST(POA) Amendment Act. The prosecution has taken steps for cancellation of bail granted to A2 and that the bail was cancelled. A2 was arrested and is still in custody. The appellant is the prime accused in the case prayed the appeal to be dismissed.

5.Though the name of the third respondent was printed in the cause list, none appears on behalf of the third respondent.

6.It is seen that the the bail granted to A2 was cancelled and A2 is in custody. The investigation was over and the case was taken on file as Spl.S.C.No.53 of 2020 and is pending before the Special Court. The appellant is in custody for the past 190 days. Considering the period of incarceration and considering the fact that the investigation was over, this Criminal Appeal is allowed and the appellant is ordered to be released on bail on 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 satisfaction of the learned Sessions Judge, Special Court for exclusively trial of cases



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- under SC/ST (POA) Act, Dindigul.
- (ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Sessions Judge, Special Court for exclusively trial of cases under SC/ST (POA) Act, Dindigul, may obtain a copy of any valid identity proof to ensure their identity.
 - (iii) On release, the appellant shall reside in Madurai and to sign before the South Gate Police Station daily twice at 10:30 a.m, and 05.00 p.m., and not to enter Dindigul District 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 learned 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]**.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Mrn

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.



To

- 1.The Sessions Judge,
Special Court for exclusively trial of cases under SC/ST (POA)
Act,
Dindigul.
- 2.The Deputy Superintendent of Police,
Oddanchathram Sub Division,
Dindigul District.
- 3.The Inspector of Police,
Ambilikkai Police Station,
Dindigul District.
- 4.The Superintendent,
The District Prison,
Dindigul.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.A. (MD)No.88 of 2021

11.03.2021

SJ(CO)

KK(12.03.2021) 4P 6C