



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATE : 03.03.2021
CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. A.(MD)No.91 of 2021

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Sundra Muneeswaran @ Edison Durai

.. Appellant

Vs.

1.The Additional Superintendent of Police,
Assistant Commissioner of Police,
Palayamkottai Sub Division,
Tirunelveli,
Tirunelveli District.

2.The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli District.
(In Crime No.1497 of 2020)

3.Sundaram

.. Respondents

Prayer : This Criminal Appeal is filed under Section 14(A) (2) of the The Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, to set aside the order passed in Cr.M.P.No.259 of 2021 dated 18.2.2021, on the file of the II Additional Sessions Judge (FAC), Tirunelveli and enlarge the appellant on bail.

For Appellant : Mr.V.Kathirvel, Senior Counsel
for Mr.KA.Raamakrishnan

For Respondents 1 and 2 : Mrs.S.Bharathi
Government Advocate
(Crl Side)

For 3rd Respondent :Mr.K.Aayiram K.Selvakumar

JUDGMENT

This appeal has been filed to set aside the order passed in Cr.M.P.No.259 of 2021 on the file of the II Additional Sessions Judge (FAC), Tirunelveli and enlarge the appellant on bail.

2.The case against the appellant is that the appellant and others restricted the defacto complainant and his men from using a pathway that leads to a funeral ground and assaulted them with iron rod. A case was registered against the appellant and others in Crime No.1497 of 2020 for the offence under Sections 147, 148, 294 (b), 352, 341, 506(ii) r/w. Sections 3(1) (r), 3(1)(s), 3(1)(va) of SC/ST (POA) Amendment Act and the appellant was arrested by the respondent police. Subsequently, the appellant filed a bail petition



in Cr.M.P.No.259 of 2021 before the II Additional Sessions Judge (FAC), Tirunelveli. The learned Sessions Judge dismissed the petition. Against which, the appellant preferred the appeal before this Court.

3.Mr.K.Aayiram K.Selvakumar, learned counsel, appeared for the defacto complainant and the defacto complainant was also available through online. Heard the learned counsel for the appellant, the learned Government Advocate for the respondents 1 and 2 and the learned counsel for the third respondent.

4.On the side of the appellant, it is stated that there is a counter case pending against the defacto complainant / third respondent and his men. A2 in this case was assaulted by the defacto complainant and his men and A2 had grievous injury viz., fracture in his hand. Only as a counter blast, this case was foisted by the defacto complainant / third respondent. It is stated that the occurrence is said to have taken place on 18.10.2020, but, the F.I.R. Was registered on 20.10.2020 and the appellant was arrested on 13.02.2021, i.e. after four months from the date of the occurrence. The investigation in this case has to be completed within a period of 60 days, but, the appellant was arrested after the completion of the prescribed time for investigation. The appellant is in custody from 13.02.2021 and prayed the appellant to be released on bail.

5.On the side of the respondents 1 and 2, it is stated that there was a pathway dispute between two parties and the pathway leads to a funeral ground. There is a counter case pending against the defacto complainant and others and if the appellant is released on bail, there is a possibility of tampering the witnesses and prayed the appeal to be dismissed.

6.On the side of the third respondent / defacto complainant, it is stated that there is a communal intolerance. The complainant and his men are humiliated by the actions of the appellant. If released, the appellant may tamper the witnesses and prayed the appeal to be dismissed.

7.It is seen that the dispute is regarding a pathway leading to a funeral ground. It is seen that there is a counter case pending against the third respondent / defacto complainant and his men. The appellant is in custody from 13.02.2021. Considering the period of incarceration, 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



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relative, each for a like sum to the satisfaction of the II Additional Sessions Judge (FAC), Tirunelveli.

(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the II Additional Sessions Judge (FAC), Tirunelveli, 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 (AD II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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 II Additional Sessions Judge (FAC),
Tirunelveli

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



2.The Additional Superintendent of Police,
Assistant Commissioner of Police,
Palayamkottai Sub Division,
Tirunelveli,
Tirunelveli District.

3.The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli District.

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

Copy to: The Superintendent,
Central Prison, Palayamkottai.

+1 CC to M/s.KA.RAAMAKRISHNAN, Advocate (SR-8484[F] dated
03/03/2021)

Crl. A. (MD)No.91 of 2021
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