



BEFORE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 07.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE R.THARANI

Crl. A(MD) No. 492 of 2021

WEB COPY

M.Shanmugadurai

... Appellant/Petitioner/Accused

-Vs-

1.The Deputy Superintendent of Police,
Palayamkottai, Tirunelveli,
Tirunelveli District

2.State rep by Inspector of Police,
Seevalaperi Police Station,
Tirunelveli District
(Crime No.200 of 2021)

... Respondents 1 & 2/Respondents/
Complainants

3.Selvakumar

... 3rd Respondent/Respndent/Defacto
Complaianant

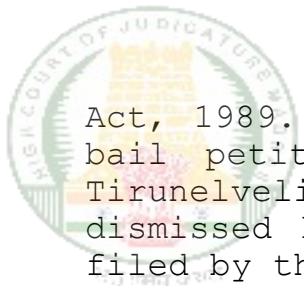
PRAYER: Criminal Appeal is filed under Section 14-A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act,1989 (Amendment Act) 1 of 2016 to set aside the order passed in Cr.M.P.No.982 of 2021 dated 12.11.2021 on the file of the II Additional District Court (For PCR Act cases), Tirunelveli and allow the criminal appeal and enlarge the appellants on bail concerned in Crime No.200 of 2021 on the file of the second respondent police.

For Appellant	: Mr.R.Anand
For R1 & R2	: Mr.R.Suresh Kumar Government Advocate
For R3	: No appearance

JUDGMENT

This Criminal Appeal has been filed to set aside the order passed in Cr.M.P.No.982 of 2021 dated 12.11.2021 on the file of the II Additional District Court (For PCR Act cases), Tirunelveli and enlarge the appellant on bail in Crime No.200 of 2021 on the file of the second respondent police.

2. The case against the appellant is that on 27.10.2021, the appellant humiliated the defacto complainant by uttering his caste's name, abused him in filthy language, assaulted him and caused him injuries. The case in Crime No.200 2021 was registered against the appellant for the offences under Sections 294(b), 324, 307, 427 and 506(ii) IPC r/w under Section 3(1)(r), 3(1)(s), and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities)



Act, 1989. The appellant was arrested on 27.07.2021 and he filed a bail petition before the learned II Additional Sessions Judge, Tirunelveli in Cr.M.P.No.982 of 2021 and the said petition was dismissed by the lower court against which the present appeal is filed by the appellant.

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3. On the side of the appellant, it is stated that the defacto complainant appeared before the trial court and submitted that he has no objection in releasing the appellant on bail and in paragraph No. 5 of the impugned order, the trial court has mentioned the same. The trial court dismissed the bail petition only because the petitioner is having 6 previous cases and the appellant is in custody for the past 42 days and there was no injury caused on the defacto complainant and prayed the appellant to be released on bail.

4. On the side of the prosecution, it is stated that injured was discharged from the hospital. The appellant is a history sheeted person and H.S.No.17 of 2019 was maintained against the appellant and he is having 6 previous cases and the prosecution has objected to the release of the appellant.

5. Though notice has been served and the name of the third respondent/defacto complainant has been printed in the cause list, none appeared on behalf of the third respondent.

6. It is seen that the appellant is in custody for the past 42 days and major portion of investigation might have been completed by this time. It is also seen that the defacto complainant was having no objection in the release of he appellant. Considering the period of incarceration and considering the fact that there was no objection on the side of the defacto complainant, this Court is inclined to release the appellant on bail.

7. In the above circumstances, the appellant is entitled for bail under Section 167 (2) of Cr.P.C. Hence, 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 II Additional District Court (For PCR Act cases), Tirunelveli.
- (ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and II Additional District Court (For PCR Act cases), Tirunelveli, may obtain a copy of any valid identity proof to ensure their identity.



- (iii) On release, the appellant should sign before the second respondent police, 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 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 (W)

// 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 District Court (For PCR Act cases),
Tirunelveli

2. The Deputy Superintendent of Police,
Palayamkottai, Tirunelveli,
Tirunelveli District

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

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



4.The Superintendent,
Central Prison, Palayamkottai.

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

+1 CC to M/s.R.ANAND, Advocate (SR-38039[F] dated 09/12/2021)

Crl. A.No. 492 of 2021
07.12.2021

USK (09.12.2021) 4P-7C