



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2022

CORAM:

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

CRIMINAL APPEAL NO.19 OF 2022

Semmalai

... Appellant/Accused 3

(Amendment petition in
Crl.M.P.No.633 of 2022
in Crl.A.No.19 of 2022
ordered by ADJCJ on 24.01.2022)

..Vs..

1. The Superintendent of Police,
Salem,
Salem District.
2. The Inspector of Police,
Nangavalli Police Station,
Salem District.
Crime No.133 of 2021.
3. Senthil

... Respondents

PRAYER: Criminal Appeal filed under Section 14(A)(2) of Scheduled Castes and the Scheduled Tribes Act, to set aside the order passed by the Learned Principal District and Sessions Judge, Salem in Crl.M.P.No.4890 of 2021 order dated 14.12.2021 and enlarge the petitioner on Bail in connection with Crime No.133 of 2021 on the file of the respondent.

For Appellant : Mr.M.Venkadesh Kumar

For Respondents : Mr.S.Sugendran for R1 and R2
Government Advocate
(Crl. 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. 4890 of 2021 by order dated 14.12.2021 passed by the Learned Principal District and Sessions Judge, Salem.

2.The case of the prosecution is that due to previous enmity, on 17.04.2021 at about 09.30 p.m., near Thannikuttapatti burial ground, when the defacto complainant was talking with his relative Murugesan and one Prakash, the appellant along with the other accused have come there and abused the defacto complainant by calling his caste name and had also abused him with filthy language and attacked him on his hands and legs and thereafter, took him in a two wheeler and later, in a car and attacked him with iron rod and stick. The appellant and the other accused threatened the defacto complainant with dire consequences and dropped him at Madhanaickenpatty bus stop and left from the place. On the complaint given by the defacto complainant, a case in Crime No.133/2021, a case was registered for the offences under sections 147, 148, 365, 294(b), 323, 324 and 506 (ii) of I.P.C. and under sections 3(1)(r), 3(1)(s) and 3(2)((va) of the Schedule Caste and the Schedule Tribes (Prevention of Atrocities) Amendment Act 2015. The appellant had filed an application for bail in CrI.M.P.No.4890 of 2021 on the file of the Principal Sessions Judge, Salem and the learned Judge by order dated 14.12.2021, had dismissed the application against which the present appeal has been filed.

3.Learned counsel for the appellant would submit that the appellant is arrayed as A3 in this case and he has been falsely implicated in this case due to previous enmity. The averments in the complaint are unbelievable. He would further submit that the co-accused in this case who have been arrested, were enlarged on bail by the Sessions Court and that the injured has also been discharged from the hospital. He would further submit that there is no previous case pending against the petitioner.

4.Mr.S.Sugendran, learned Government Advocate (crl side) appearing for the respondents 1 and 2 would submit that the defacto complainant belongs to the schedule caste community. On 17.04.2021, while the defacto complainant was discussing along with his relatives, the appellant and the other accused who have come there, had quarreled with them and called them by caste name and abused him in filthy language and attacked him with iron rod and stick and thereafter, they have taken the defacto complainant in a two wheeler and subsequently, taken in a car and keeping him inside the car, they assaulted the defacto complainant and later on early morning, they dropped him near



Madhanaickenpatty bus stop. He would further submit that the complaint was given immediately to the respondent police, however, the injured has been discharged and the co-accused have been granted bail by the Sessions Court.

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

6. Heard the learned counsels and perused the materials on record.

7. Taking into consideration the facts, it is a case where the appellant who belongs to the backward community along with the other accused is stated to have abused the defacto complainant with filthy language by calling his caste name and assaulted him and that the co-accused were enlarged on bail and the injured is also stated to have been discharged from the hospital, this Court is of the opinion that the bail can be granted to the appellant.

8. Taking into consideration of the facts and the submissions made, this court is inclined to allow the appeal. Accordingly, the criminal appeal is allowed. The order passed in CrI.M.P No.4890 of 2021 dated 14.12.2021 is set aside.

9. 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 his own bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) before the Superintendent of the concerned prison/Jailor concerned, in which the appellant has been confined and thereafter, on his release, the appellant shall execute two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.1, Mettur, Salem District 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 his release from prison shall report before the respondent police daily at 10.30a.m. until further orders. The appellant shall not leave the jurisdictional limits;



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

(e) the appellant shall not abscond during investigation or trial;

(f) the appellant shall not tamper with evidence or witness during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Judicial 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];

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vri/shk

To

1. The Principal District and Sessions Judge,
Salem.
2. The Judicial Magistrate No.I,
Mettur, Salem District.
3. The Superintendent of Police,
Salem, Salem District.
4. The Inspector of Police,
Nangavalli Police Station,
Salem District.
Crime No.133 of 2021.
5. The Superintendent of Prison,
Sub Jail, Omalur Salem District.



6. The Public Prosecutor (Crl side),
High Court, Madras.

Copy To

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

Crl. A. No.19 of 2022

RLD (CO)
RLP (25/01/2022)