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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.A.No.97 of 2022

Dhanasekar,
S/o.Kaliyamurthy

... Appellant/Accused

versus

1.State by : Station House Officer,
Valathy Police Station,
Villupuram District.
(Crime No.268 of 2019)

2.Chitra,
W/o.Murukesan

... Respondents/Complainant

[R-2 impleaded as per order dated 21.02.2022 in Crl.M.P.No.2177 of 2022 in Crl.A.No.97 of 2022]

Prayer: Criminal Appeal filed under Section 14(A) of the SC & ST Act, 2015, praying to set aside the order dated 22.01.2022 in Crl.M.P.No.1888 of 2021 passed by the Special Court for Exclusive Trial of Cases registered under the SC&ST (Prevention of Atrocities) Act, Villupuram and enlarge the appellant on bail in Crime No.268 of 2019 on the file of the respondent police.

For Appellant : M/s.S.Nadhiya

For Respondent No.1 : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)

For Respondent No.2 : No Appearance

J U D G M E N T

Being dissatisfied with the order dated 22.01.2022 made in Crl.M.P.No.1888 of 2021 on the file of the Special Court for Exclusive Trial of Cases registered under the SC&ST (Prevention of Atrocities) Act, Villupuram, the appellant, who is the petitioner in the above referred petition, arrayed as an accused in Crime No.268 of 2019 on the file of the Valathy Police Station has prepared this Criminal Appeal and praying to enlarge him on bail.



2. The case of the prosecution is that on 19.08.2019 at 12.00p.m., the de facto complainant's husband viz. Murugesan was digging the drug tuber behind the Thurkaiyamman Temple, at that time, the appellant came to the place and prevent him to take the tuber, due to the quarrel, the appellant was allegedly using his caste's name attacked with stone. Due to the such assault, he sustained head injury and subsequently, he died in the hospital. Hence, a case has been registered against the appellant under Sections 294(b), 302 of IPC r/w Section 3(1)(r), 3(1)(s) and Section 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 2015.

3. The learned counsel appearing for the appellant would submit that the appellant is an innocent person and he has been falsely implicated in this case. She would further submit that the alleged occurrence had happened due to the sudden provocation. Further, the appellant is the first time offender and also he is having a permanent residence. He is in judicial custody from 19.08.2019 onwards. Hence, she prayed for bail by allowing this appeal.

4. The learned Government Advocate (Crl. Side) appearing for the respondent police raised objection stating that the case pertains to the appellant, is pending in the trial Court for examination of further evidence. He would further submit that, as of now, 18 witnesses have been examined and in the said situation, if the appellant is released on bail, he may try to tamper the witness and hamper the investigation. Accordingly, he prayed for dismissal of this appeal.

5. Considered the submissions made by the learned counsel appearing on either side.

6. The respondent police registered a case as against this appellant for the offences under Sections 294(b), 302 of IPC r/w Section 3(1)(r), 3(1)(s) and Section 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 2015. Now, after completing the investigation, Final Report has been filed and the case is posted for examination of prosecution witnesses. In otherwise, it is admitted on either side that, 18 witnesses have already been examined on the side of the prosecution. It is not in dispute that the appellant is the first time offender. Further, the averments found in the First Information Report would disclose the fact that due to the result of wordy quarrel, the appellant attacked the deceased with stone and thereby the alleged occurrence has happened.



7. Therefore, taking into consideration of the fact that the appellant is the first time offender and he is in incarceration from 19.08.2019, this Court is inclined to grant bail to the appellant subject to following conditions.

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8. Accordingly, the appellant is ordered to be released on bail subject to the following conditions;

(a) the appellant shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the Special Court for Exclusive Trial of Cases registered under the SC&ST (Prevention of Atrocities) Act, Villupuram;

(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 is directed to appear before the respondent police daily at 10.00 a.m. until further orders;

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

(e) 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];

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

9. With the above directions, this Criminal Appeal is allowed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sri
To

1.The Special Court for Exclusive Trial of Cases
registered under the SC&ST (Prevention of Atrocities) Act,
Villupuram.



2.The Station House Officer,
Valathy Police Station,
Villupuram District.

3.The Superintendent,
Central Prison,
Cuddalore.

4.The Public Prosecutor,
High Court, Madras.

Copy to

The Section Officer,
Criminal Section,
High Court, Chennai-600 104.

+1cc to Mr.P.Pugalenth, Advocate Sr.14519

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