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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2022

CORAM

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

Crl.A.No.108 of 2022

Moorthy @ Krishnamoorthy
S/o.Raji,

...Appellant/Petitioner/Accused No.1

Vs.

1. The Deputy Superintendent of Police
Athur Sub Division,
Salem District.

..1st Respondent

2. The State Rep. by
The Inspector of Police,
Thammampatty Police Station,
Salem District
(Crime No.158 of 2019)

..2nd Respondent/Complainant

3. Selvamani,
S/o.Rajadurai,

...3rd respondent/Intervener
defacto complainant

Criminal Appeal filed under Section 14-A of S.C.S.T.Act (Prevention of Attrocities Amendment Act 2015) r/w. 374 (3) of Cr.P.C. praying to set aside the order passed in Crl.M.P.No.269 of 2022 dated 24.01.2022 on the file of the Principal Sessions Judge, Salem and enlarge the appellant on bail on Crime No.158 of 2019, on the file of the 2nd respondent police.

For Appellant : Mr.W.Camyles Gandhi

For R1 & R2 : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)

JUDGMENT

This criminal appeal has been filed against the order of dismissal of bail application in C.M.P.No.269 of 2022 dated 24.01.2022 by the learned Principal Sessions Judge, Salem.

2.Case of the prosecution is that the appellant/A-1 and A-2



by giving assurance that they would arrange job in Dubai for the defacto complainant's son Bakiyaraj, received totally a sum of Rs.3,35,000/- from the defacto complainant and sent his son to Dubai. Since they did not arrange job as agreed, due to mental agony, the said Bakiyaraj committed suicide on 29.09.2019 and the same was informed to defacto complainant. It is the further case that the defacto complainant by giving petition to the District Collector, Salem, got the dead body to India and performed the last rites. On 25.10.2019 at about 6.00 pm., when the defacto complainant was in Periyapakkalam Bus stand, the accused abused him using his caste name and obscene words and thereatend him and hence, the complaint. The 2nd respondent police registered a case against the appellant and another in Crime No.158 of 2019.

3.The learned counsel appearing for the appellant contended that the appellant was not involved in the commission of offence and false case has been foisted against him. The appellant is ready to abide by any conditions imposed by this Court for grant of bail.

4.The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that by giving false promise to arrange the job in abroad to the defacto complainant's son, the appellant and another accused have received amount and the defacto complainant's son was sent to abroad, and due to the reason that no job was arranged there, out of mental agony, he committed suicide and when the defacto complainant enquired the accused about the same, the appellant abused him using his caste name and threatened him. He further submitted that the appellant has not appeared before the court below and the court issued NBW against the petitioner and the police filed the absconding charge sheet and then the appellant moved this court and obtained direction to surrender before the court below and thereafter the appellant surrendered. The court below dismissed his bail application and remanded him to judicial custody. He further submitted that respondent police filed the charge sheet and there is every possibility of him absconding again and therefore, the court below rejected his bail petition and hence at this stage, the appellant should not be released on bail.

5.Heard the learned counsel appearing for the appellant and the learned Government Advocate (Crl.Side) appearing for the respondent police.

6.In this case, investigation is completed and the police filed charge sheet and now the case is pending in Spl.S.C.No.4 of 2021. Taking into consideration the facts and submissions made, this Court is of the opinion that this is a case where the appeal can be allowed and the bail can be granted to the



appellant.

7. In view of the above, the order dated 24.01.2022 passed in CrI.M.P. No.269 of 2022 stands set aside and the Criminal Appeal stands allowed and this Court is inclined to grant bail to the appellant/accused.

(a) Accordingly, the appellant is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties, each for a like sum to the satisfaction of the learned Principal Sessions Judge, Salem, 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 appear before the respondent Police station, daily at 10.30 a.m. until further orders.

(d) the appellant shall not abscond during trial;

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

(f) on breach of any of the aforesaid conditions, the learned Sessions Judge/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 Principal Sessions Judge/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.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

nvsri

To

1. The Principal Sessions Judge,
Salem.
2. The Deputy Superintendent of Police
Athur Sub Division, Salem District.



3. The Inspector of Police,
Thammampatty Police Station,
Salem District (Crime No.158 of 2019)

4. The Superintendent,
Central Prison, Salem.

5. The Public Prosecutor
High Court, Madras.

+1cc to Mr.W.Camyles Gandhi, Advocate, S.R.No.12102

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SR-II (CO)
RGA(24/02/2022)