



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2022

CORAM

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CRL.A.NO.178 OF 2022

Deniba

... Appellant

Vs.

1. The State Rep. by
The Deputy Superintendent of Police,
Salem, Salem District.
2. The State rep. by
The Inspector of Police,
Kitchipalayam Police Station,
Salem City.
(Crime No.1182 of 2020)
3. C.Jansirani

... Respondents

PRAYER: Criminal Appeal filed under Section 14(A) (2) of the SC/ST Act, 1989, to set aside the order made in C.M.P.No.4326 of 2021 dated 26.11.2021 passed by the learned Principal District and Sessions Judge of Salem and to enlarge the petitioner on bail by allowing the appeal throughout.

For Appellant : Mr.B.Mohan

For Respondents

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

For R3 : Mr.R.Sankarasubbu

JUDGMENT

Being dissatisfied with the order dated 26.11.2021 made in Crl.M.P.No.4326 of 2021, the appellant, who was arrayed as Accused No.15 in Crime No.1182 of 2020 on the file of the



Kitchipalayam Police Station, has preferred this appeal and praying to enlarge him on bail.

2. The case of the prosecution is that the defacto complainant's husband Selladurai is a rowdy element and there was an enmity between the defacto complainant's husband's group and the accused Suriyamoorthy group. Due to previous enmity, on 22.12.2020 at about 7.30 p.m. when the defacto complainant's husband was proceeding along with the defacto complainant and one Valarmathi in his car on Appar Street, the appellant and other accused came with veecharuval in cars and two wheelers and waylaid the defacto complainant's car and attacked the defacto complainant's husband with veecharuval and the defacto complainant's husband was brought to the hospital, where the Doctor declared him as dead. Hence, a case was registered against the appellant under Sections 147, 148, 341, 302 & 427 of I.P.C. r/w. Section 3 of TNPPDL Act and altered to Section 427, 177, 419 r/w 34, 120(b), 147, 148, 149, 341 & 302 I.P.C. r/w. Section 3 of TNPPDL Act and Section 3(2)(v) of SC/ST (POA) Amendment Act, 2015.

3. The learned counsel for the appellant would submit that the appellant is an innocent person and no way connected with the offence as alleged by the prosecution. He would further submit that the respondent police has now completed the investigation and filed a final report. According to him, the appellant is in the Judicial Custody from 30.12.2021 onwards. Hence, he prays for bail by allowing this appeal.

4. The learned Government Advocate (Crl. Side) appearing for the respondent/Police raised objection stating that while at the time of occurrence, the appellant joined with other accused and after made conspiracy, committed the offence of murder. Further, he submits that the appellant was liable to be convicted under the provisions of SC/ST Act and he is having four previous cases. However, he admits that as of now, the investigation in this case has been completed and final report has also been filed before the trial Court.

5. The submissions made by the learned counsel appearing on either side are considered.

6. No doubt, the alleged offences committed by the appellant are nothing but an heinous crime. Further, the appellant is in the judicial custody from 30.12.2021 onwards and as of now, the investigation has been completed. Though the petitioner is having previous cases, the particulars given by the learned Government Advocate appearing for the respondent Police shows that those cases are registered before the year



1917. Hence, the question of tampering witnesses does not arise. Hence, in view of the above, for completing the investigation, further detention of the appellant is not necessary.

7. Taking into consideration the above said aspects, particularly, considering the period of incarceration, this Court is inclined to grant bail to the appellant subject to following conditions.

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 learned Principal District & Sessions Judge, Salem.

(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 learned Judicial Magistrate No.I, Nagapattinam, 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. In the result, the order passed by the learned Principal Sessions Judge, Salem in CrI.M.P.No.4326 of 2021 dated 26.11.2021 is set aside and the Criminal Appeal is accordingly allowed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

rts



To

1. The Principal District and Sessions Judge,
Salem.
2. The Deputy Superintendent of Police,
Salem, Salem District.
3. The Inspector of Police,
Kitchipalayam Police Station,
Salem City.
4. The Superintendent,
Central Prison,
Coimbatore.
5. The Public Prosecutor,
High Court, Madras.
6. The Collector,
Salem District.
7. The Deputy Inspector General of Police,
Salem.

CrI.A.No.178 of 2022

NRL (CO)
RLP (07/04/2022)