



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.A. No.152 of 2022

Jayakumar ... Appellant / Petitioner /
Accused
vs.

1.The State rep. by
The Inspector of Police,
Manimangalam Police Station,
Manimangalam.
Chennai.
(Crime No.34 of 2022) ...1st Respondent/ 1st Respondent/
Complainant

2.Suresh ... 2nd Respondent/ Defacto Complainant

PRAYER: Criminal Appeal filed is filed under Section 14(A)(2) of Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989 praying to call for the records relating to the orders of the Principal District and Sessions Judge (Special Court for Exclusive Trial of Cases) under SC/ST (POA) Act, 2015, Chengalpattu made in Crl.M.P.No.283 of 2022 on 01.02.2022 refusing bail to the appellant/petitioner/accused and set aside the above order by allowing this appeal pending investigation in Crime No.34 of 2022 on the file of the Inspector of Police, Manimangalam Police Station, Chengalpattu District.

For Petitioner : Mr.P.Gurusamy

For Respondents 1 : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

For Respondent-2 : No appearance

JUDGMENT

Being dissatisfied with the order dated 01.02.2022 made in Crl.M.P.No.283 of 2022 on the file of the Principal District and Sessions Judge (Special Court for Exclusive Trial of Cases) under SC/ST (POA) Act, 2015, Chengalpattu, the appellant/the accused in Crime No.34 of 2022 on the file of the



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

2. When the matter was taken up for admission on 22.02.2022, this Court ordered notice to the second respondent/defacto complainant. After receipt of notice none appeared on behalf of the second respondent/defacto complainant.

3. The case of the prosecution is that on 19.01.2022, at the time when the deceased Rajesh and Elumalai were in the process of cleaning the septic tank, they fell unconscious and resultantly died. For the said occurrence, the respondent police registered a case against the appellant for the offences under Sections 304(2) of Indian Penal Code r/w. Section 7 and 9 of Prohibition of Employment as Manual Scavenger and their Rehabilitation Act, 2013 and under Sections 3(i)(j), 3(2)(v) of SC/ST Act, 1989.

4. The learned counsel for the appellant submitted that the appellant is an innocent person and he is no way connected with the alleged occurrence. He would further submit that after the occurrence, the appellant had paid a sum of Rs.2,00,000/- to each victim's family and as of now, the appellant is in the judicial custody from 21.01.2022 onwards. The trial Court without appreciating the same, refused to grant bail to the appellant. Hence, he prays for bail.

5. The learned Government Advocate (Crl. Side) appearing for the respondent police raised objection stating that the investigation is pending.

6. The submissions made by the learned counsel appearing on either side are considered. The averments found in the First Information Report would disclose the fact that while at the time of cleaning the septic tank, the alleged occurrence had happened. In other words, whether the appellant is negligently directed the deceased to complete the work is a matter for trial. Further, the appellant is incarceration from 21.01.2022. Therefore, considering the nature of offence committed by the appellant, this Court is inclined to grant bail to the appellant subject to following conditions.

7. 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 Session Judge of Kancheepuram at Chengalpettu, Chengalpet District;



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(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.

With the above directions, this Criminal Appeal is allowed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

rsi

To

- 1.The Principal District and Sessions Judge
Kancheepuram at Chengalpettu
Chengalpet District.
- 2.The Principal District and Sessions Judge
(Special Court for Exclusive Trial of Cases)
under SC/ST (POA) Act, 2015,
Chengalpattu.
- 3.The Inspector of Police,
Manimangalam Police Station,
Manimangalam.
Chennai.



4.The Superintendent,
The District Jail/Prison,
Chengalpattu, Chengalpet District.

5.The Superintendent,
Central Prison, Puzhal.
Chennai.

6.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Sithirai Anandam, Advocate, S.R.No.13852

Crl.A. No.152 of 2022

SSD(CO)
SB(03/03/2022)