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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.A. No.221 of 2022

Manivannan @ Kuttiyappan @ Moses ... Appellant/Accused-13

vs.

1. The Assistant Commissioner of Police,
Annadhanapatti,
Salem City.
Salem - 636 015.
(Crime No.1182 of 2020).

2. State by the Inspector of Police,
Kitchipalayam Police Station,
Salem City.

3. Jansirani ... Respondents/Complainants/
Defacto Complainants

PRAYER: Criminal Appeal is filed under Section 14-A of Schedule Caste and Schedule Tribes (Prevention of Atrocities), Act, against the bail dismissal order passed in Crl.M.P.No.414 of 2022 in Crime No.1182 of 2020 in Spl.S.C.No.6 of 2021 dated 02.02.2022, by the Court of Principal Sessions Judge, Salem and seeks bail and to set aside the order.

For appellant : Mr.D.Balaji
For Respondents 1 & 2 : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)
For Respondent-3 : No appearance

JUDGMENT

Being dissatisfied with the order dated 02.02.2022 made in Crl.M.P.No.414 of 2022, the appellant, who was arrayed as Accused Nos.13 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 persons 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 22.01.2021 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 was liable to be convicted under the provisions of SC/ST Act. 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. However, the appellant is in the judicial custody from 22.01.2021 onwards and as of now, the investigation has been completed. Further more, the appellant is not arrayed as first accused and not having any previous bad antecedents. Hence, the question of hampering investigation and 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 Sessions Judge, Special Court for Exclusive Trial of Cases Registered under SC/ST (POA) Act, 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.

In the result, the order passed by the learned Principal Sessions Judge, Salem in CrI.M.P.No.414 of 2022 dated 02.02.2022 is set aside and the Criminal Appeal is accordingly allowed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

RSI

To

1. The Principal Sessions Judge, Salem.
2. The Principal Sessions Judge,
Special Court for Exclusive Trial of Cases
Registered under SC/ST(POA) Act,
Salem.



3. The Judicial Magistrate No.I,
Nagapattinam.

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4. -do-through the Chief Judicial Magistrate,
Nagapattinam.

5. The Assistant Commissioner of Police,
Annadhanapatti,
Salem City.
Salem - 636 015.
(Crime No.1182 of 2020).

6. The Inspector of Police,
Kitchipalayam Police Station,
Salem City.

7. The Superintendent,
Central Prison, Coimbatore.

8. The Public Prosecutor,
High Court, Madras.

+2cc to Mr.D.Balaji, Advocate, S.R.No.21825

(31/03/2022)

Cr1.A.No.221 of 2022

TE (29/03/2022)