



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.A. No.168 of 2022

Sathish

... Appellant/Accused-5

vs.

1.The Deputy Superintendent of Police,
Salem District.

... Respondent / Complainant

2.The Sub-Inspector of Police,
Kitchipalayam Police Station,
Salem.
(Crime No.1182 of 2020)

3.Jansirani

... Respondents / Defacto
Complainant

PRAYER: Criminal Appeal filed is filed under Section 14-A(2) of Schedule Caste and Schedule Tribe (Prevention of Attrocities) Amendment Act, 2015 praying to set aside the order passed by the learned Principal Sessions Judge, Salem in C.M.P.No.4085 of 2021 dated 26.10.2021 and enlarge the appellant on bail on such terms and conditions that may be imposed by this Court.

For Petitioner : Ms.S.Sengkodi

For Respondents 1 & 2 : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

For Respondent-3 : Mr.A.Sivakumar
for Mr.R.Sankarasubbu

JUDGMENT

Being dissatisfied with the order dated 26.10.2021 made in C.M.P.No.4085 of 2021, the appellant, who is arrayed as Accused No.5 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 petitioner 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 as against the appellant under Sections 147, 148, 341, 302, 427 of I.P.C. r/w. 3 of TNPPDL Act altered to 147, 148, 341, 302, 427 of I.P.C. r/w. Section 3(1) of TNPPDL Act altered to 3(2)(v) of SC/ST (POA) Act, 1998 altered to 120(B), 147, 148, 149, 341, 302 of I.P.C. and Section 3(1) of TNPPDL Act and Section 3(2)(v) of SC/ST (POA) Amended Act, 2015.

3. The learned counsel for the appellant would submit that the appellant has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He would further submit that the co-accused were already enlarged on bail and as of now, the appellant is in the Judicial Custody from 24.12.2020 onwards. Hence, he prays for bail.

4. The learned Government Advocate (Crl. Side) appearing for the respondent/Police raised objection stating that the appellant is having four previous cases. Further, he was detained under the Goonda's Act. It is his specific submission that as of now the investigation is not completed.

5. The learned counsel appearing for the defacto complainant raised objection stating that if the appellant is released on bail, he may commit the same offence, further he would create the law and order problem in the said locality.

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

7. Though the petitioner was detained under Goondas Act, as of now, the said order was quashed on 01.10.2021. The other previous cases now mentioned by the learned Government Advocate are related to the years 2015 and 2016. As of now, the other accused, who were involved in the alleged occurrence are released on bail. Further the portion of the investigation has already been completed. Moreover, the appellant is in the judicial custody from 24.12.2020 onwards. 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.

8. Considering the facts and circumstances of the case, particularly, considering the period of incarceration, this Court is inclined to grant bail to the appellant subject to following conditions.

9. 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 Judicial Magistrate No.II, 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 Cuddalore Town Police Station, Cuddalore daily at 10.30 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(CCC)

//True Copy//

Sub Assistant Registrar



1. The Principal Sessions Judge,
Salem.
2. The Deputy Superintendent of Police,
Salem District.
3. The Sub-Inspector of Police,
Kitchipalayam Police Station,
Salem.
4. The Inspector of Police,
Cuddalore Town Police Station,
Cuddalore.
5. The Judicial Magistrate,
Cuddalore.
6. The Judicial Magistrate No.III,
Salem.
7. The Superintendent,
Central Prison, Salem.
8. The Public Prosecutor,
High Court, Madras.

Copy to
The Section Officer,
Criminal Section,
High Court, Madras - 104.

+1cc to Ms.S.Sengodi, Advocate, S.R.No.15230

Cr1.A. No.168 of 2022

SVI[co]
NSK 11/03/2022