

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.A.No.223 of 2022

1.K.Vijayakumar

2.S.Chinnamani

... Appellants/Accused Rank not known

vs.

1.The State

rep. by the Deputy Superintendent of Police,
Polur Sub Division,
Kadaladi Police Station,
Thiruvannamalai District.

..1st Respondent/
Investigation Officer

2.The State

rep. by the Inspector of Police,
Kadaladi Police Station,
Thiruvannamalai District.
(Crime No.38 of 2022)

...2nd Respondent/ Respondent

3.N.Muthuraman

.. 3rd Respondent/ Defacto Complainant

PRAYER: Criminal Appeal filed under Section 14-A(2) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities), Amendment Act, 2018 praying to set aside the order passed in Crl.M.P.No.93 of 2022 dated 21.02.2022 on the file of the Special Court for Exclusive Trial of cases under Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Thiruvannamalai and consequently enlarge the appellants on bail in respect of Crime No.38 of 2022 on the file of the second respondent police.

For Appellants : Mr.S.B.Viswanathan

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

For Respondent-3 : Ms.K.Nithyashree

JUDGMENT

Being dissatisfied with the order dated 21.02.2022 made in Crl.M.P.No.93 of 2022, on the file of the Special Court

for Exclusive Trial of cases under Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Tiruvannamalai, the appellants/accused in Crime No.38 of 2022 on the file of the second respondent Police, have preferred this appeal and praying to set aside the order dated 21.02.2022 and to enlarge them on bail.

2. The case of the prosecution is that on 16.01.2022, due to the dispute over carrying the dead bodies of persons of Arunthathiar Community through the High road, the appellants and other accused, who belong to the Vanniyar community, had entered into the area, wherein, the defacto complainant and others were residing and caused damage to the vehicles, windows and doors. For the said incident, the second respondent police has registered a case in Crime No.38 of 2022 for the offences punishable under Sections 294(b), 147, 148, 324, 307 I.P.C. and Section 3(1)(za)(A), 3(2)(va) of SC/ST (POA) Act 2016 and Section 3(1) of TNPPDL Act, 1992. Afterwards, the appellants were secured on 14.02.2022 and remanded to judicial custody. The earlier bail application filed before the Special Court for trial of cases under SC/ST(POA) Act, Tiruvannamalai was dismissed by an order dated 21.02.2022. Challenging the impugned order dated 21.02.2022, the appellants are before this Court.

3. The learned counsel for the appellants would submit that the appellants are innocent persons and no way connected with the occurrence as alleged by the prosecution. As of now, the investigation in this case has been completed and the appellants are the only bread winner of their respective family. It is the further submission that the appellants are ready to abide any conditions imposed by this Court and accordingly, he prayed to set aside the impugned order dated 21.02.2022 and to enlarge them on bail.

4. The learned Government Advocate (Crl. Side) appearing for the respondent/Police raised objection stating that some of the accused, who committed the alleged occurrence, were absconded and as of now, the investigation has not been completed. However, he admits that the alleged occurrence had happened due to the emotional feelings of the villagers.

5. Ms.K.Nithyasree, learned counsel appearing for the defacto complainant has also raised objection stating that if this type of appellants are released on bail, they may try to tamper the witnesses and hamper the investigation. According to her, as of now, the dispute having by the defacto complainant with the appellants is pending before the Revenue Divisional Officer and in this regard, a Peace Committee has also been arranged.

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

7. The averments found in the First Information Report shows that during the relevant point of time, the appellants and other accused, who belong to the same village, in an emotional mood, joined together and obstructed the people, who belong to the community of the defacto complainant and attempted to restrain them from carrying the dead body. Therefore, in the said circumstances, whether the appellants are having the intention to abuse the defacto complainant and others, is a matter for trial. In other words, considering the period of incarceration, further custody of the appellants is not necessary for completing the investigation. As of now, the appellants are in incarceration from 14.02.2022 onwards. Further after registering the case, no such events had happened in the occurrence place.

8. Hence, taking note of all the above said aspects into consideration, and having regard to the nature of offence committed by the appellants and also by considering the period of incarceration, this Court is inclined to grant bail to the appellants subject to certain conditions.

9. Accordingly, the appellants are ordered to be released on bail subject to the following conditions;

(a) the appellants shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) (each), with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST(POA) Act, Thiruvannamalai.

(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 appellants shall appear before the Srivilliputhur Town Police Station, daily at 10.00 a.m. until further orders. Further, the appellants should not enter into the occurrence place without the permission of this Court.

(d) the appellants 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 appellants in

accordance with law as if the conditions have been imposed and the appellants 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 abscond, a fresh FIR can be registered under Section 229A IPC.

In the result, the order passed by the learned Sessions Judge, Special Court for Exclusive Trial of cases under SC/ST(POA) Act, Thiruvannamalai in Crl.M.P.No.93 of 2022 dated 21.02.2022 is set aside and the Criminal Appeal is accordingly allowed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Sessions Judge,
Special Court for Exclusive Trial of Cases
under SC/ST (POA) Act,
Thiruvannamalai.
- 2.The Deputy Superintendent of Police,
Polur Sub Division,
Kadaladi Police Station,
Thiruvannamalai District.
- 3.The Inspector of Police,
Kadaladi Police Station,
Thiruvannamalai District.
- 4.The Superintendent,
Central Prison, Vellore.
- 5.The Inspector of Police,
Srivalliputhur Town, Police Station,
Srivalliputhur.
- 6.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.B.Viswanathan, Advocate, S.R.No.20151

Crl.A.No.223 of 2022

SSD(CO)
SB(28/03/2022)