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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CRL.A.NO.347 OF 2022

M.Selvam

... Appellant/A20

vs.

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

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

3. N.Muthuraman

... Respondents

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 CrI.M.P.No.229 of 2022 dated 15.03.2022 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 appellant on bail in respect of Crime No.38 of 2022 on the file of the Deputy Superintendent of Police, Polur Sub Division, Thiruvannamalai District.

For Appellant : Mr.S.B.Viswanathan

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 15.03.2022 made in CrI.M.P.No.229 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, Thiruvannamalai, the appellant/A20 in Crime No.38 of 2022 on the file of the respondent Police, has preferred this appeal praying to set aside the order dated 15.03.2022 and to enlarge him 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 who belongs to Arunthathiar Community through the High road, the appellant 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 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 appellant was secured on 05.03.2022 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 15.03.2022. Challenging the impugned order dated 15.03.2022, the appellant is before this Court.

3. The learned counsel for the appellant would submit that the appellant is an innocent person 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 appellant is the only bread winner of his respective family. It is the further submission that the appellant is ready to abide any conditions imposed by this Court and accordingly, he prayed to set aside the impugned order dated 15.03.2022 and to enlarge the appellant on bail.

4. The learned Government Advocate (CrI. 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. Though notice was served to the defacto complainant, none appeared on behalf of him.



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 appellant 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 appellant is 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 appellant is in incarceration from 05.03.2022 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 appellant and also by considering the period of incarceration, this Court is inclined to grant bail to the appellant subject to certain 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 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 appellant shall appear before the Srivilliputhur Town Police Station, daily at 10.00 a.m. until further orders. Further, the appellant should not enter into the occurrence place without the permission of this Court.

(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



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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 Sessions Judge, Special Court for Exclusive Trial of cases under SC/ST (POA) Act, Thiruvannamalai in CrI.M.P.No.229 of 2022 dated 15.03.2022 is set aside and the Criminal Appeal is accordingly allowed.

Sd/-

Assistant Registrar(CS VI)

//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.lok
3. The Inspector of Police,
Kadaladi Police Station,
Thiruvannamalai District.
4. The Superintendent,
Central Prison, Vellore.
5. The Inspector of Police,
Srivilliputhur Town Police Station,
Srivilliputhur,
Virudhunagar District.



6. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.B.Viswanathan, Advocate, Sr.No.23487

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SPD (CO)
PM/07/04/2022