



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.A. No.410 of 2022

Manikandan

...Appellant/Accused-11

vs.

State rep.by:

1. The Deputy Superintendent of Police,
Salem District.

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

3.Jansirani

...Respondents/Compalinant
Defacto Complainant

PRAYER: Criminal Appeal filed under Section 14-A(2) of the Schedule Castes and the Schedule Tribes (Prevention of Atrocities) Amendment Act, 2015 praying to set aside the order passed in Crl.M.P.No.816 of 2022 dated 02.03.2022 on the file of the learned Principal Sessions Judge, Salem and enlarge the appellant on bail in Crime No.1182 of 2020 on the file of the second respondent police.

For Appellant : Ms.S.Sengkodi

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 02.03.2022 made in Crl.M.P.No.816 of 2022, on the file of the learned Principal Sessions Judge, Salem, the appellant, who is All in Crime No.1182 of 2020 on the file of Kitchipalayam Police Station, Salem has preferred this appeal praying to set aside the above said order dated 02.03.2022 and 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, waylaid the defacto complainant's car, 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 and others under Sections 147, 148, 341, 302, 427 of I.P.C. r/w. 3 of TNPPDL Act altered to 147, 148, 341, 302, 427, 120(B), 149, 177, 419 r/w 34, 109 of IPC and Section 3(1) of TNPPDL Act r/w 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. She would further submit that the co-accused were already enlarged on bail and as of now, the appellant is in the Judicial Custody from 23.12.2020 onwards. Hence, she prays for bail.

4. The learned Government Advocate (Crl. Side) appearing for the respondent/Police raised objection stating that if the appellant is released on bail, he may commit the same offence, further he would create the law and problem in the said locality.

5. Under Section 15A of SC/ST Act, notice has been sent to the defacto complainant, but after receipt of the same, none appeared on behalf of her.

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

7. Though the appellant was detained under Goondas Act, as of now, the said order was quashed on 01.10.2021 in HCP.No.610 of 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, as of now, investigation has been completed and charge sheet was filed before the trial court. Moreover, the appellant is in the judicial custody from 23.12.2020 onwards. Hence, the question of hampering investigation and tampering witnesses does not arise.

8. In view of the above, this Court is inclined to grant bail to the appellant on certain conditions. 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.

In the result, the order passed by the learned Principal Sessions Judge, Salem in Crl.M.P.No.816 of 2022 dated 02.03.2022 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 Principal Sessions Judge,
Salem.
2. The Judicial Magistrate No.II,
Salem
3. The Deputy Superintendent of Police,
Salem District.



- +1cc to M/s.S.Sengodi, Advocate, S.R.No.27488

NMI (CO)
RGA (22/04/2022)