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Crl.A.No.421 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.A.No.421 of 2022

Vasoor Raja @ Thulasi Govindarajan

... Appellant

Versus

1. Assistant Commissioner of Police,
Annadhanapatti,
Salem City.
Crime No.1182 of 2020

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

3. Jansirani

... Respondents

Prayer: Criminal Appeal filed under Section 14(A) of SC/ST Act, 2015 against the bail dismissal order passed in Crl.M.P.No.4891 of 2021 in Crime No.1182 of 2020 in Spl.S.C.No.6 of 2021, dated 14.12.2021 by the Court of Principal Sessions Judge, Salem and seeks bail and to set aside the order.

For Appellant : Mr.D.Balaji

For Respondent : Mr.S.Vinoth Kumar
Government Advocate (Crl. Side)



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JUDGMENT

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This appeal is filed against the order of the learned Principal Sessions Judge, Salem, dated 14.12.2021 in Crl.M.P.No.4891 of 2021, in and by which, the prayer for bail by the appellant was dismissed. The appellant is arrayed as accused No.18 in the case.

2. The learned Counsel for the appellant would submit that the appellant is not at all involved in the instant offence. In this case, already the investigation is completed and the chargesheet is filed and the matter is pending in Spl. S.C.No.6 of 2021. On a perusal of the chargesheet filed, it is seen that even the eye witnesses have not attributed any overt act in respect of the appellant. The only statement made is that the appellant also took part in the conspiracy to kill the deceased person.

3. The learned Counsel would submit that in this case, all the accused have been released on bail and including other accused, who are similarly situated with number of previous antecedents, namely accused No.16, *Jayasuriya @ Surya*, was also granted for bail against whom also, 21 cases were pending. Therefore, he would submit that the appellant is under incarceration from 22.02.2021 onwards i.e., more than one year and



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therefore, prays for bail.

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4. Per contra, the learned Government Advocate (Crl. Side) would submit that the appellant is a history sheeter. In spite of repeatedly granting bail, he, time and again, indulged in repeated offences and totally 26 cases are there to his credit. Therefore, on this sole ground, the bail should not be granted to him. The learned Government Advocate (Crl. Side) would also submit that in this case, the co-accused have clearly confessed and the appellant was also present in the scene of occurrence and prevented the deceased from escaping from the scene of offence.

5. I have considered the rival submissions made on either side and upon the submission made by the prosecution that the appellant has got 26 previous cases, this Court directed the learned Government Advocate (Crl. Side) to submit a list of previous cases. Upon perusal of the said list, it is seen that the majority of the cases are old cases and in the recent cases, either the appellant's name is not directly mentioned in the F.I.R nor he is present in the scene of occurrence. Therefore, this Court takes into consideration of the same. Further, on a perusal of the records, the evidence, as against the accused is concerned, is the evidence of P.W.1, the



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wife of the deceased, who has stated that he also conspired to kill the deceased. Apart from the above, there is no other material to point out the actual overt act as alleged in this case. Therefore, considering the fact that the appellant is in prison from 22.02.2021 and all the other accused, who are all similarly placed as that of the appellant having been granted bail, I am of the view that the appellant is also entitled to be enlarged on bail. It is made clear that the observations supra which are made for the purpose of granting of bail, and will not have any bearing whatsoever during the course of trial.

6. Therefore, the Criminal Appeal is allowed and the appellant is enlarged on bail on the following conditions:-

(a) the appellant is ordered to be released on bail, on executing separate bonds 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 Trial Court;

(b) the appellant and the sureties shall affix their photographs and left thumb impressions in the surety bonds and the learned Judge may obtain a copy of their Aadhar Cards or Bank Pass books to ensure their identities;



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(c) the appellant shall appear before the Trial Court everyday at 10.30 A.M until the disposal of the case and if he is not able to appear before the Trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C., and shall appear before the Trial Court on any other day in *lieu* of the date of his absence, as directed by the Trial Court;

(d) the appellant shall not tamper with evidence or witness either during investigation or trial;

(e) the appellant shall not abscond either during investigation or trial;

(f) on breach of any of the aforesaid conditions, the learned Judge/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 is released on bail by the learned Judge/Trial Court themselves as laid down by the Hon'ble Supreme Court in ***P.K.Shaji vs. State of Kerala, (2005) AIR SCW 5560***;

(g) if the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

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Index : yes/no

Speaking/Non-speaking order
grs



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D.BHARATHA CHAKRAVARTHY, J.

grs

To

1. The Principal Sessions Judge,
Salem.
2. The Public Prosecutor,
High Court of Madras.
3. The Assistant Commissioner of Police,
Annadhanapatti,
Salem City.
4. The Inspector of Police,
Kitchipalayam Police Station,
Salem City.
5. The Superintendent,
Central Prison,
Coimbatore.

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