

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL.A.NO.507 OF 2022

Jayakumar @ Thandi Jayakumar,
S/o.Mani

... Appellant

Versus

1. The State Represented by,
The Deputy Superintendent of Police,
Salem,
Salem District.

2. The State Represented by,
The Inspector of Police,
Kitchipalayam Police Station,
Salem District.
In Crime No.1182/2020

3. C.Jansirani

... Respondents

Prayer : Criminal Appeal filed u/s.14A(2) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Amended Act 2015, praying to set aside the order made in C.M.P.No.1394 of 2022 dated 19.04.2022 passed by the learned Principal District and Sessions Judge of Salem and to enlarge the petitioner on bail and allowing the appeal.

For Appellant	:	M/s.G.Antoprince
For R1 & R2	:	Mr.S.Vinoth Raja, Government Advocate (Crl.Side)
For R3	:	Mr.Sankarasubbu

JUDGMENT

This Appeal is filed aggrieved by the order of the learned Principal District and Sessions Judge, Salem in C.M.P.No.1394 of 2022 in Spl.S.C.No.6 of 2021, thereby denying bail to the appellant.

2. The appellant is arrayed as Accused No.7 and the case is under Section 307 IPC, where under, due to enmity between the two groups, which according to the prosecution are all history sheeter. There was a deadly attack on the deceased and totally, there are 32 accused in the case.

3. As per the submission of the learned Counsel for the petitioner, all the 32 accused except A1 and A7 are granted bail. As far as the appellant is concerned, the overt act alleged against him is that he stood at the scene of occurrence and aided the other accused in committing the offence and attacked.

4. The learned Government Advocate (Crl.Side) appearing for the first and second respondents, would submit that, there are twelve previous cases as against the appellant.

5. The learned Counsel appearing on behalf of the defacto complainant would submit that, the issue involved in this case has already been dealt with in the earlier judgment of this Court and it is found that this is not a fit case for grant of bail to them. As a matter of fact, the Trial Court was directed to dispose of the case within a period of six months from the date of a copy of that order and without co-operating with the Trial Court for conduct of the trial, the appellant is using his own default to go out on bail.

6. Therefore, this Court should not enlarge the appellant on bail and further, submitted that there is a danger to the life of the witnesses in this case, since the previous enmity conflict between the parties may escalate and therefore, opposed for grant of bail.

7. I have considered the rival submissions made on behalf of both sides and perused the material records on this case.

8. Considering the fact that the direction was granted on 04.08.2021 to dispose of the cases within a period of six months, but, however, till date not even the charges have been framed and the matter has not taken up for some reason or other. The second consideration of this Court is that the appellant is under incarceration from 24.12.2020 for a period of 555 days. Upon verifying the list of cases against him, out of the twelve cases, seven cases are in the nature of violation of bond, LIR cases, etc.,

9. Considering all these factors cumulatively, this Court is inclined to grant bail to the appellant on the following conditions :

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

(b) the appellant and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(c) the appellant shall stay at Dharmapuri and report before the Dharmapuri Town Police Station daily at 10.30 a.m., except on the hearing dates of the present case or the other cases, in which, he is directed to appear and he is directed to appear in all the pending cases, without fail on all hearing dates;

(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 Magistrate/ Trial Court is entitled to take appropriate action against the appellant in accordance with law as if the conditions has been imposed and the appellant is 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]; and;

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

5. Accordingly, this Criminal Appeal is allowed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal District and Sessions Judge,
Salem, Salem District.
2. The Deputy Superintendent of Police,
Salem, Salem District.

3. The Inspector of Police,
Kitchipalayam Police Station,
Salem District.
4. The Superintendent,
Central Prison, Coimbatore.
5. The Public Prosecutor,
Madras High Court.
6. The Section Officer,
Criminal Section,
High Court, Madras - 104.

+1cc to M/s.G.Antoprince, Advocate, S.R.No.44712

Cr1.A.No.507 of 2022

CA(CO)
RLP(12/07/2022)