



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2022

Coram

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.A.No. 1133 of 2022

1.Shankarappa @ Shankar
2.Madhesh

...Appellants

-Vs-

1.The District Superintendent of Police,
Krishnagiri District.

2.State Rep.by
The Inspector of Police,
Thally Police Station,
Krishnagiri District
(Crime No. 210 of 2022)

3.Venkatesh

..Respondents

PRAYER : Criminal Appeal filed under Section 14-A(2) of the SC/ST (PoA) Act, praying to set aside the order made in Crl.MP.No. 2205/2022 dated 19.09.2022 on the file of the Principal Sessions Judge, Krishnagiri and enlarge the petitioners bail in connection with Crime No. 210 of 2022 on the file of the respondent police.

For Appellants : M/s.K.Thangammal

For Respondent : Mr.S.Sugendran, APP – R1 & R2
M/s.U. Manogar - R3



ORDER

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This Criminal Appeal is filed to set aside the order made in Crl.MP.No. 2205/2022 dated 19.09.2022 on the file of the Principal Sessions Judge, Krishnagiri and enlarge the petitioners bail in connection with Crime No. 210 of 2022 on the file of the respondent police.

2. The appellants herein have been arrayed as A5 & A6 in Crime No. 210 of 2022 on the file of the Inspector of Police, Thally Police Station. The appellants/Accused 5 & 6 have filed bail application before the Principal District and Sessions Judge, Krishnagiri in Crl.MP.No.2205 of 2022, the said application was dismissed by order dated 19.09.2022, therefore the appellants A5 & A6 have filed the present appeals before this Court, seeking to set aside the above dismissal order and to enlarge them on bail.

3. The learned counsel for the appellants would submit that already the appellants were in custody for 89 days and the investigation also completed and the co- accused have already released on bail, therefore these appellants are also to be enlarged on bail.



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4. The learned Additional Public Prosecutor appearing for the respondent police would submit that there is specific overt act against these appellants/A5 & A6. Based on the confession statement given by A1, these appellants have been implicated and the accused A1 to A3 already detained under Gundas Act. The learned Additional Public Prosecutor strongly contended that the appellants/A5 & A6 cannot be enlarged on bail citing the bail granted to other co-accused as there is specific overt act attributed against these appellants.

5. Since these offences are registered under SC/ST Act, mandatory provisions have to be applied, hence notice through Court and privately was ordered to the defacto complainant and the notice also served. Though the learned counsel for the defacto complainant is present before this Court, no vakalath has been filed on his behalf.

6. Heard both sides and perused the materials available on record.



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7. On perusal of records, the first respondent police has initially registered a case against two persons in Crime No. 490/2020 for the offence under Section 294(b) IPC and registered another case in Crime No. 210 of 2022 for the offence under Section 302 IPC and subsequently altered the Sections to 302, 143, 341, 294(b), 201 IPC 4/2 Sec 3 (2)(v) of SC/ST(POA) Amendment Act 2015, therefore it is clear that there is specific overt act against these appellants/A5 & A6.

8. According to the confession statement given by A1, the appellants have played vital role and they are the master mind for committing murder. Even though the charge sheet is filed, the same is yet to be taken on file by the concerned Jurisdictional Court.

9. Though the learned counsel for the appellants has submitted the attendance register in respect of the accused obtained from the employer namely AVS Tech Building Solutions, Krishnagiri, dated 28.09.2022 to substantiate his arguments, considering the serious nature of the offence and the specific overt act attributed against these appellants and in view of the



confession statement given by the A1 against these appellants/A5 & A6, this

Court is of the view that though bail granted to the co-accused, the appellants cannot be placed on the same foot, since there is specific overt act attributed against them and if the appellants are enlarged on bail, there is possibility of retraction and they try to erase the evidences, therefore this Court is not inclined to grant bail to the appellants herein /A5 & A6 and the Criminal Appeal is liable to be dismissed.

10. In the result, the Criminal Appeal is dismissed.

01.11.2022

Index :Yes/No

Internet : Yes

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To

1. The Inspector of Police,
Thally Police Station.
Krishnagiri.

2. The District Munsif-cum-Judicial Magistrate,
Denkanikottai.

3. The Principal Sessions Judge,
Krishnagiri.

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P.VELMURUGAN,J.

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CrIA.No.1133 of 2022

01.11.2022