



Crl.A(MD)No.839 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.12.2022

CORAM

THE HONOURABLE MR. JUSTICE G.ILANGO VAN

Crl.A(MD)No.839 of 2022

Thirumurugan

... Appellant/Accused No.4

Vs.

1.The State rep. by
The Deputy Superintendent of Police,
Samayanallur Sub Division,
Alanganallur Police Station,
Madurai District. ... 1st Respondent/Investigating Officer

2.The Inspector of Police,
Alanganallur Police Station,
Madurai District.
(Crime No.231 / 2022) ... 2nd Respondent/Complainant

3.Priya ... 3rd Respondent/Defacto Complainant

Prayer : This Appeal is filed under Section 14A(2) of the Scheduled Castes and the Scheduled Tribes (Amendment Act), 2015, Amendment Act 1 of 2016, to call for the records pertaining to the order passed in Cr.M.P.No.2591 of 2022 on the file of the learned III Additional District and Sessions Court (PCR), Madurai, dated 16.11.2022 and set aside the same as illegal and enlarge the appellant on bail by allowing the appeal.



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For appellant : Mr.S.Ramasundarvijayraj
For R-1 & R-2 : Mr.B.Nambiselvan
Additional Public Prosecutor
For R3 : Mr.Hendri Tiahagne

J U D G M E N T

Heard the learned Counsel appearing for the appellant, learned Government Advocate (Crl. Side) appearing for the respondents 1 & 2 and the learned counsel appearing for the third respondent.

2.This Criminal Appeal has been filed to call for the records and set-aside the order passed by the learned learned III Additional District and Sessions Court (PCR), Madurai, dated 16.11.2022 made in Cr.M.P.No. 2591 of 2022 and enlarge the appellant on bail.

3.The appellant, who was arrested and remanded to judicial custody on 07.09.2022, for the offences punishable under Sections 341, 302 IPC @ 147, 148, 324, 341, 302,506(ii) IPC, Section 4 of TNPHW Act r/w Section 3(1)(r), 3(1)(s), 3(2)(v) of SC/ST (POA) Amendment Act 2015, in Crime No. 231 of 2022 on the file of the respondent police, seek appeal bail.



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4.The petitioner is arrayed as 4th accused in this case. The counsel for the petitioner submitted that the name of the petitioner is not mentioned in the FIR. Only after alteration of charges, the name of the petitioner was included. Limited overt act has been attributed against the petitioner that he attacked the deceased with wooden log. Because of the previous enmity between the deceased and the accused with regard to the running of the auto, the above said occurrence has taken place. There is no previous case pending against the petitioner. Third accused's name was included in the FIR from the beginning. He was granted bail by the Special Court in Cr.M.P.No.3313 of 2022, dated 13.12.2022. This petitioner is also standing on the very same footing as of the third accused in the FIR .

5.The learned Government Advocate (Crl. Side) appearing for the respondent police submitted that final report has been filed before the PCR Court, Madurai, and the same was taken cognizance in Special S.C.No.138 of 2022. There is no previous case against the petitioner.

6.Since final report has been filed before the concerned Court and the petitioner is having no bad antecedents and Considering the period of incarceration, this Court is inclined to allow this appeal and grant bail to the



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appellant with certain conditions.

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7. Accordingly, the Criminal Appeal is allowed and the order, dated 16.11.2022 made in Crl.M.P.No.2591 of 2022 on the file of the learned Sessions Judge, Special Court for Trial of SC / ST (PoA) Act Cases, Theni District, is set aside. The appellant is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties, each for a like sum to the satisfaction of the learned III Additional District and Sessions Court (PCR), Madurai, and on further condition that:

[a] the appellant shall appear before the concerned court, daily at 10:30 a.m. until further orders;

[b] the appellant shall not tamper with evidence or witness either during investigation or trial;

[c] the appellant shall not abscond either during investigation or trial;

[d] On breach of any of the aforesaid conditions, the 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 Trial Court itself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

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Index : Yes/No

Internet : Yes/No

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To

1.The III Additional District and Sessions Judge, Special Court for PCR Cases, Madurai,

2.The Deputy Superintendent of Police,
Samayanallur Sub Division,
Alanganallur Police Station,
Madurai District.

3.The Inspector of Police,
Alanganallur Police Station,
Madurai District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN,J.

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