



Crl.A(MD)No.842 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.12.2022

CORAM

THE HONOURABLE MR. JUSTICE G.ILANGO VAN

Crl.A(MD)No.842 of 2022

Marimuthu

.. Appellant

Vs.

1.The Deputy Superintendent of Police,
Palayamkottai Sub-Division,
Tirunelveli District. ... 1st Respondent/Investigating Officer

2.The Inspector of Police,
Thatchanallur Police Station,
Tirunelveli District. ... 2nd Respondent/Complainant

3.Thangaraj ... 3rd Respondent/Defacto Complainant

Prayer : This Appeal is filed under Section 14A(2) of the Scheduled Castes and the Scheduled Tribes (POA) Act, 1989 as amended by Act 1 of 2016, to call for the records pertaining to the order, dated 29.11.2022 made in Cr.M.P.No.2663 of 2022, on the file of the learned II Additional Sessions Judge (PCR) Cases, Tirunelveli and set aside the same and enlarge the appellant on bail in connection with Crime No.228 of 2022 on the file of the 2nd respondent by allowing this criminal appeal.



WEB COPY



Crl.A(MD)No.842 of 2022

For appellant : Mr.T.Lenin Kumar
For R-1 & R-2 : Mr.B.Nambi Selvan
Government Advocate (Crl. Side)
For R3 : Mr.K.Abiya, Legal Aid counsel.

J U D G M E N T

This Criminal Appeal has been filed to call for the records pertaining to the order, dated 29.11.2022 made in Cr.M.P.No.2663 of 2022, on the file of the learned II Additional Sessions Judge (PCR) Cases, Tirunelveli and set aside the same and enlarge the appellant on bail in connection with Crime No.228 of 2022 on the file of the 2nd respondent.

2.The appellant, who was arrested and remanded to judicial custody on 10.08.2022, for the offences punishable under Sections 341, 294(b), 302, 506(ii) IPC and Section 3(1)(r), 3(1)(s), 3(2)(v) of SC/ST (POA) Amendment Act 1989 @ 147, 148, 341, 294(b), 302, 506(ii), 120(b) r/w Section 3(1)(r), 3(1)(s), 3(2)(v) of SC/ST (POA) Amendment Act 1989, in Crime No.228 of 2022 on the file of the respondent police, seek appeal bail.

3.The case of the prosecution is that the defacto complainant belongs to the SC community. His son namely Petchiraja and defacto complainant and others are by profession of Mason. The said Petchiraja already roped as



Crl.A(MD)No.842 of 2022

accused in Masanamuthu Nadar murder case. In this regard there was a enmity. Keeping this enmity in mind the accused persons hatched conspiracy to eliminate the said Petchiraja. Due to this previous motive on 06.08.2022, when the defacto complainant along with his son Petchiraja and his elder son namely Sivakumar and one Sudalaikumar were proceeding to Malapalayam, Kurichi for construction work, at about 9.20 a.m. when they are crossing Sai Baba Temple near Bye-pass Road Bridge one accused came in motorcycle and dashed Petchiraja's two wheeler and immediately remaining 2 accused persons assaulted the Petchiraja with sickle indiscriminately and murdered him on the spot. They also used derogatory statement by mentioning the community name and also threatened the defacto complainant with dire consequences. Thereafter, A2 to A3 were arrested and they gave statement voluntarily. In the confession statement A1 specifically stated about the other accused persons including conspiracy and finance assistance by A8. This petitioner gave his two wheeler to the main accused to eliminate the said Petchiraja and the same was used by the co-accused persons in the spot.

4.The counsel for the petitioner submitted that only limited overt act has been attributed against the appellant to the effect that he lent the vehicle, which was used by the co-accused for committing the above said alleged



Crl.A(MD)No.842 of 2022

murder. Except the above said overt act, no other involvement is noted and there was no motive between himself and the deceased.

5.The learned counsel for the defacto complainant submitted that not only the appellant lent the above said vehicle for the use of the co-accused, but financially assisted the co-accused for commit the above said murder. According to him, there is a life threat also at the hands of the accused.

6.It appears that final report has also been filed before the concerned Court and the same was also taken in S.C.No.132 of 2022 by the learned II Additional District Judge, PCR Court, Tirunelveli. Even though it is submitted that no specific overt act, it is a retaliation murder. The non-involvement of the petitioner will come in the light only after the trial. This Court is not inclined to grant bail to the appellant at this stage.

7.Accordingly, this criminal appeal stands dismissed.

22.12.2022

Index : Yes/No
Internet : Yes/No
TM



Crl.A(MD)No.842 of 2022

To
WEB COPY

- 1.The II Additional Sessions Judge (PCR) Cases, Tirunelveli
- 2.The Deputy Superintendent of Police,
Palayamkottai Sub-Division,
Tirunelveli District.
- 3.The Inspector of Police,
Thatchanallur Police Station,
Tirunelveli District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.A(MD)No.842 of 2022

G.ILANGO VAN,J.

TM

Crl.A(MD)No.842 of 2022

22.12.2022