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Crl.A.No.123 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.A.No.123 of 2023

J.Vallavan

... Appellant

/vs/

1. State, represented by
The Deputy Superintendent of Police,
Ariyalur District.

2. The Inspector of Police,
Vikkiramangalam Police Station,
Ariyalur District.

3. Sathiyamoorthy

.. Respondents

Prayer : Criminal Miscellaneous Petition filed under section 14(A)(2) of SC/ST (POA) Act, 1989 to set aside the order dated 23.01.2023 passed by the Principal Sessions Judge, Ariyalur Sessions Division, Ariyalur District in Crl.M.P.No.200 of 2023 in Crime No.8/2023 and enlarge the appellant on bail.

For Petitioner ... Mr. P.Ponbalaji

For Respondents ... Mr.A.Gokulakrishnan,
Additional Public Prosecutor – R1 & R2

R3 – Notice served. No appearance.



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ORDER

This Criminal Appeal has been filed challenging the order dated 23.01.2023 passed by the Principal Sessions Judge, Ariyalur Sessions Division, Ariyalur District in Crl.M.P.No.200 of 2023 in Crime No.8/2023 and enlarge the appellant on bail.

2. The respondent police registered a case in Crime No.8/2023 against the appellant for the offence punishable under Section 294(b) IPC and Section 3(l) (u) of SC/ST (POA) Act. The appellant filed a petition in Crl.M.P.No.200 of 2023 to grant bail to him and the same was dismissed by the above said Judge, vide order dated 23.01.2023. Challenging above said order, this criminal appeal has been filed.

3. Despite notice sent to the defacto complainant and name of the defacto complainant / second respondent printed in the cause list, there is no representation for the defacto complainant/ second respondent.

4. Heard the learned counsel for the appellant and the learned Additional Public Prosecutor for the first and second respondents and perused the materials on record.



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5. The learned counsel for the appellant submitted that the appellant was arrested by the respondent police on 17.01.2023 in pursuant to the complaint given by one Sathiyamoorthy on the allegation that the petitioner/accused took the 'Tabu Melam' from the house of the defacto complainant and when that was questioned, the petitioner abused using caste name and the same was recorded and sent in their whatsapp group and thereby, insulted the complainant using his community and hence, a case has been registered against the appellant. He further submitted that the appellant is in custody from 17.01.2023 and final report has been filed in this case. Therefore, seeks to set aside the impugned Order.

6. The learned Additional Public Prosecutor appearing for the first and second respondents submitted that pursuant to the complaint given by the defacto complainant, the second respondent registered a case against the appellant / accused in Crime No.8 of 2023 for the offence under section 294[b] IPC and Section 3(l) (u) of SC/ST (POA) Act. He further submitted that the petitioner is involved in 3 previous case of similar nature, which are as follows :



S.No.	<i>Police Station, Crime No. Offences under section</i>	<i>Stage of the case</i>
1.	Vikkiramangalam Police Station, Crime No.29 of 2017 u/s.186, 143 IPC	Not taken on file
2.	Vikkiramangalam Police Station, Crime No.183 of 2017, u/s.294 [b], 323, 324, 506[ii] IPC	Pending trial vide C.C.No.20 of 2018 Judicial Magistrate Court No.I, Jayankondam. The next hearing date is 24.02.2023 for examination of PW2 to PW6
3.	Vikkiramangalam Police Station Crime No.242 of 2022 u/s.147, 148, 294[b], 506[ii] IPC r/w.3[1], [r&s], 3[2] [va] SC/ST POA Act	Pending trial vide Spl.S.C.No.06 of 2023 Principal Sessions Judge, Ariyalur. The next hearing date is 20.02.2023 for issue of process.

Therefore, objected to grant bail to the petitioner.

7. A perusal of the records shows that the a case in Crime No.8/2023 was registered against the appellant for the offence punishable under Section 294(b) IPC and Section .3(l) (u) of SC/ST (POA) Act on the complaint given by one Sathiyamoorthy. In the complaint, it is alleged that on 16.01.2023 at about 4.45 p.m., the accused person took the 'tabu melam' from his house and abused the appellant's community, viz., 'parayan community' and the same was put in whatsapp group and hence, a case has been registered. It is also noticed that the appellant is involved in three other cases. The bail petition in Crl.M.P.No.200 of 2023 filed by the appellant was dismissed by the above said Judge vide order dated 23.01.2023. Challenging above said order, this



criminal appeal has been filed.

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8. Considering the nature of offence alleged against the appellant and that final report has been filed in this case and the same has been taken in file in Spl.S.C.No.21 of 2023 by the Special Court and that the appellant is in custody from 17.01.2023, I am inclined to grant bail to the appellant with some conditions.

9. Accordingly, this Criminal Appeal is allowed by setting aside the impugned order dated passed in Crl.M.P.No.200/2023 dated 23.01.2023 and bail is granted to the appellant with the following conditions :

(i) The appellant is directed to be enlarged on bail on condition that the appellant *shall execute 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 Principal Sessions Judge, Ariyalur Sessions Division, Ariyalur District.*

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

(iii) the appellant shall not tamper with evidence or witness either



during investigation or trial;

(iv) **the appellant shall report before the Trial Court, as and when required by the Trial Court.**

(v) the appellant shall not abscond during trial;

(vi) on breach of any of the aforesaid conditions, the learned Trial Judge is entitled to take appropriate action against the appellant in accordance with law as if the conditions has been imposed and the appellant released on bail by the learned Trial Judge himself as laid down by the Hon'ble Supreme Court in *P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]*; and;

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

13.03.2023

Note: Issue order copy on 14.03.2023

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To

1. The Principal Sessions Judge, Ariyalur Sessions Division, Ariyalur District.
2. The Superintendent, Sub Jail, Jayamkondam.
3. The Public Prosecutor, High Court of Madras, Chennai.



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V.SIVAGNANAM, J.

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