



Crl.A.No.193 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 09.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.Appeal No.193 of 2023

1. P.Sasikumar
- 2.G.Subash
- 3.V.Prakash
- 4.S.Mani

... Appellants

Vs.

1. The Deputy Superintendent of Police,
Polur Sub Division,
Polur, Polur Taluk,
Thiruvannamalai District.

2. The Inspector of Police,
Polur Police Station.

3. G.Chandrasekaran

... Respondents

Prayer: Criminal Appeal filed under Section 14A(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2018 to set aside the order passed in Crl.M.P.No.195 of 2023 dated 20.02.2023 by the Special Court for Exclusive Trial of Cases under Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Thiruvannamalai and consequently enlarge the appellants on bail in respect of Crime No.33 of 2022 on the file of the



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Deputy Superintendent of Police, Polur Sub Division Station,
Thiruvannamalai District, pending investigation.

For Appellants : Mr.B.Viswanathan

For Respondent-1 : Mr.A.Gokulakrishnan

Additional Public Prosecutor

ORDER

This Criminal Appeal has been filed praying to set aside the order passed in Crl.M.P.No.195 of 2023 dated 20.02.2023 by the Special Court for Exclusive Trial of Cases under Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Thiruvannamalai and consequently enlarge the appellants on bail in respect of Crime No.33 of 2022 on the file of the Deputy Superintendent of Police, Polur Sub Division Station, Thiruvannamalai District, pending investigation.

2.The learned counsel for the appellants has submitted that the respondent Police registered a case in crime No.33 of 2023 on 24.01.2023 for the offences alleged under Sections 147, 148 294(b),



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323, 324, 427, 307 and 506(2) of I.P.C read with Sections 3(1)(r), 3(1)(s) and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 pursuant to the complaint given by one G.Chandrasekaran. The 3rd respondent/Defacto complainant and the Accused No.1, Jayashankar are neighbours. There already existed a dispute with regard to the land between the defacto-complainant and the accused persons. On 24.01.2023, the Accused-1 along with other accused came to the place of occurrence and demolished the compound wall constructed by the de-facto complainant in his house and also abused him using his caste name and assaulted him with a wooden log. Therefore, the accused were arrested on 25.01.2023. The Accused No.6 was released on bail and the other accused are still in the judicial custody for more than 44 days from 25.01.2023. Further, he contended that the Accused-1 belongs to schedule caste community and therefore, the offence under SC/ST Act will not attract the Accused-1. Hence, they seek to grant bail to the appellants and set aside the impugned order.

3.Mr.A.Gokulakrishnan, the learned Additional Pubic Prosecutor



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(Crl side) appearing for the respondents 1 & 2 objected for grant of bail to the appellants. Further, he contended that in the F.I.R, the name of the Accused No.2, P.Sasikumar was specifically mentioned by the complainant, who assaulted the defacto complainant/G.Chandrasekaran with wooden log, due to which, he sustained fractured in both his hands. Therefore, he object to grant the bail to the accused No.2.

4.Heard Mr.B.Viswanathan, learned counsel for the appellants and Mr.A.Gokulakrishnan, the learned Additional Public Prosecutor (Crl side) for the respondents 1& 2. Notice has been served on the 3rd respondent/defacto-complainant. Though the name of the 3rd respondent is printed in the cause list, there is no representation on behalf of him.

5.I have considered the submissions made by the learned counsel appearing for the respective parties and perused the entire materials placed on record.

6. On perusal of the records, the facts reveal that 2nd respondent-Police registered a case against the appellants/accused in Crime No.33



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of 2023 under Sections 147, 148, 294(b), 323, 324, 427, 307 and 506(2) of I.P.C read with Sections 3(1)(r), 3(1)(s) and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 based on the complaint given by one G.Chandrasekaran. It is alleged in the complaint that there was a dispute between the accused -1, Sasikumar and the defacto-complainant with regard to the land. While making his arrangements for constructing a compound wall in his house, on 24.01.2023 at about 9.30 a.m., the accused persons along with others came to the place of occurrence and assaulted the defacto-complainant with Thadi and caused grievous injuries and also abused him using his caste name. It is also specially alleged in the complaint, that Jaishankar/A1 and Sasikumar/A2 had assaulted the defacto complainant, due to which, he sustained grievous injuries. Therefore, this Court is not inclined to grant bail to Accused-2/Sasikumar. Hence, the bail is dismissed with regard to **Accused-2/Sasikumar, the first appellant herein** by confirming the order of the trial Court.

7.Considering the nature of allegation in the complaint that the over tact attitude of the Appellants 2 to 4/**Accused-3,G.Subash, Accused-4,V.Prakash and Accused-5, S.Mani** and also considering



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fact that the accused 3, 4 and 5 were in judicial custody from 24.01.2023, I am inclined to grant bail to the appellants with the following conditions:

(i) The Appellants 2 to 4/**Accused-3,G.Subash, Accused-4,V.Prakash and Accused-5, S.Mani** are directed to be enlarged on bail on condition that the appellants 2 to 4 shall execute a bond for a sum of each Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the Special Court for Exclusive Trial of Cases under Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Thiruvannamalai.

(ii) The appellants 2 to 4 and their sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(iii) the appellants 2 to 4 shall not tamper with evidence or witness either during investigation or trial;

(iv) the appellants 2 to 4 shall appear before the **Court as and**



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when required.

(v) the appellants 2 to 4 shall not abscond either during investigation or trial;

(vi) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the appellants 2 to 4 in accordance with law as if the conditions has been imposed and the appellants 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;

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

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Index:Yes/No
Internet:Yes/No
srn

To

1. The Special Court for Exclusive Trial of Cases
under Scheduled Castes and the Scheduled Tribes (Prevention of
Atrocities) Act, 1989, Thiruvannamalai.



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2. The Superintendent, Central Prison, Vellore

3. The Public Prosecutor, High Court, Madras.



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V.SIVAGNANAM, J.

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