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CRL.A.NO.267 OF



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2023

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

CRL.A.NO.267 OF 2023

Moulidharan

... Appellant

Vs.

State Represented by

1.The Deputy Superintendent of Police
Tiruvallur Range
E-4, Kattur Police Station
(Crime No.125/2022)

2.The Inspector of Police
E-4, Kattur Police Station
(Crime No.125/2022)

3.Manikandan

... Respondents

PRAYER: Criminal Appeal filed under Section 14 A(2) of the SC / ST Act, 1989, to set aside the dismissal order dated 06.03.2023 passed in Crl.M.P.No.799/2023 by the Principal District and Sessions Judge, Tiruvallur and release the petitioner on bail.

For Appellant : Mr.P.Parthipan

For Respondents : Mr.A.Gokulakrishnan
1 and 2 Additional Public Prosecutor



JUDGMENT

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This Criminal Appeal has been preferred by the appellant against the dismissal order dated 06.03.2023 passed in Crl.M.P.No.799 of 2023 by the learned Principal District and Sessions Judge, Tiruvallur and to release him on bail.

2.The learned counsel for the appellant submitted that the respondent police registered a case against the appellant along with others in Crime No.125 of 2022 for the offences punishable under Sections 147, 148, 302 IPC @ 147, 148, 302, 120(B) IPC r/w 3(2)(v), 3(2)(va) of ST / ST (POA) Act. He further submitted that there is no specific overtact against the appellant in the complaint and his name has not been mentioned in the FIR. Upon the confession of the other accused only, the appellant has been implicated in the case, by the respondent police. He was arrested and remanded to custody on 09.02.2023. Since there is no specific overtact against this appellant, he has to be released on bail. However, the Trial Court has failed to consider the same and dismissed the petition filed for grant of bail. The said order is under challenge in this Criminal Appeal.



3.The learned Additional Public Prosecutor for the respondents 1 and 2 strongly objected to grant bail to the appellant and contended that the appellant is a habitual offender and apart from the present case on hand, he has involved in the following cases:-

S.No.	Police Station & Crime No.	Under Section / s	Stage
1	M-5, Ennore Police Station Crime No.564/2019	294(b), 323, 506(i) IPC r/w. 4(1) TNOPPD Act	UI
2	Sholavaram Police Station Crime No.530/2022	448, 294(b), 384, 506(i) IPC	UI
3	Cuddalore OT Police Station Crime No.740/2022	307, 436 IPC @ 120B, 307, 436 IPC (Prison Jailor Bomb Attack)	UI

However, if this Court is inclined to grant bail to the appellant herein, he may be ordered to be stayed out of the present District.

4.I have considered the submissions made on either side and perused the materials available on record.

5.On perusal of the records and FIR and other materials, the facts reveals that on 09.05.2022 at about 09.00 am, when the deceased, father of the defacto complainant / the third respondent herein, went to open his Petty Shop,



the accused persons Mohan Raj, Sundar, Manikandan, Kishore, Arun Kumar and others assaulted the father of the defacto complainant with deadly weapons and caused the death of the defacto complainant's father by name Moorthy. Upon the complaint given the defacto complainant, a case has been registered in Crime No.125 of 2022 for the offences punishable under Sections 147, 148, 302 IPC @ 147, 148, 302, 120(B) IPC r/w 3(2)(v), 3(2)(va) of ST / ST (POA) Act and the accused were arrested and remanded. Further, on perusal of the FIR, it is seen that the name of the appellant has not been mentioned and only upon the confession statement of the other accused, the appellant herein has been implicated in the crime and investigation is going on.

6.Considering the fact that the appellant is implicated in this case only upon the confession of other co-accused and he is in custody from 09.02.2023, the impugned order dated 06.03.2023 passed in CrI.M.P.No.799 of 2023 by the learned Principal District and Sessions Judge, Tiruvallur, is hereby set aside and bail is granted to the appellant and 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 the like sum before the learned Judicial Magistrate No.II, Ponneri.



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

(b) the appellant shall not tamper with evidence or witness either during investigation or trial;

(c) the appellant is directed to stay at **Ramanathapuram** and report before **Sikkal Police Station, Ramanathapuram District**, on the first day of every week at 10.30 am until further orders.

(d) the appellant shall not abscond either during investigation or trial;

(e) 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 himself as laid down by the Hon'ble Supreme Court in ***P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]***; and;

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



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7. With the above directions, this Criminal Appeal is allowed.

18.04.2023

Internet : Yes/No
TK

To

1. The Principal District and Sessions Judge
Tiruvallur.
2. The Deputy Superintendent of Police
Tiruvallur Range
E-4, Kattur Police Station.
3. The Inspector of Police
E-4, Kattur Police Station
5. The Public Prosecutor
High Court of Madras.
6. The Superintendent
Central Prison
Puzhal, Chennai.



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V.SIVAGNANAM, J.

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