



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2023

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

CRL.A.NO.378 OF 2023

1.Magesh @ Magesh Kumar
2.Mani @ Manikandan

... Appellants

Vs.

1.State Represented by
The Deputy Superintendent of Police
Panruti Sub-Division
Panruti,
Pudupettai Police Station
Panruti, Cuddalore District.
Crime No.535/2022

2.Inspector of Police
Pudupettai,
Cuddalore District.

3.Sathiaseelan

... Respondents

PRAYER: Criminal Appeal filed under Section 14A of SC & ST Act to set aside the order made in Crl.M.P.No.346 of 2023 dated 20.03.2023 passed by the Sessions Judge, Special Court for Exclusive Trial of Cases under SC & ST Act, Cuddalore, and enlarge the petitioners on bail in Crime No.535/2022 pending investigation on the file of the respondent police.



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For Appellants : Mr.N.Palanikumar
For Respondents : Mr.A.Gokulakrishnan
1 and 2 Additional Public Prosecutor
For Respondent- 3 : Mr.S.Thirugnanam

JUDGMENT

This Criminal Appeal has been preferred by the appellants against the dismissal of the bail petition preferred by them before the learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC & ST Act, Cuddalore, in Crl.M.P.No.346 of 2023 dated 20.03.2023.

2.The learned counsel for the appellants submitted that the respondent Police registered a case against the appellants in Crime No.535 of 2022 for the offences under Sections 147, 148, 364, 302 IPC r/w. 3(2)(v) and 3(2)(va) of SC / ST (POA) Act. The case of the prosecution is that the defacto complainant has given a complaint on 10.09.2022 before the respondent police alleging that on 08.09.2022, Thattanchavadi Kaliyamman Temple function was conducted and during that night, his brother by name Sakthivel requested to stop the idol procession before his street and at that time some people objected the same. Further, it is alleged that on 09.09.2022 at about 07.30 pm., the



defacto complainant received a message that his brother Sakthivel was attacked by some persons and on search, the defacto complainant came to know that his brother's body was kept in Government Hospital Mortuary, Mundiypakkam. Therefore, the defacto complainant lodged a complaint on 10.09.2022 before the respondent police against seven named persons and the appellants were subsequently arrested and remanded to judicial custody on 30.01.2023.

3.The learned counsel for the appellants further submitted that the other FIR named persons were arrested and released on bail by the Sessions Court itself. However, as far as the appellants herein are concerned, the Trial Court dismissed the bail petition on the ground that the defacto complainant objected to enlarge the appellants herein on bail, since there is a life threat to the family members of the defacto complainant. Further, it is submitted that the respondent police has not filed any application for cancellation of bail against the persons mentioned in para 7 of the impugned order. Under such circumstances, refusing to grant bail to the appellants herein is not in order. He further submitted that the appellants are residing at Chennai and Pondicherry respectively and they were not at all found at the place of occurrence. Under these circumstances, the appellants herein seek to set aside the impugned order, which is under challenge in this Criminal Appeal.



4.The learned Additional Public Prosecutor conceded that the other accused were enlarged on bail by the Sessions Court .

5.The learned counsel for the third respondent/defacto complainant objected to release the appellants on bail and submitted that already the other accused, who were enlarged on bail by the Sessions Court, have threatened him and his family members and there is a fear of their lives. Hence, he strongly objected for grant of bail to the appellants.

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

7.On perusal of the records and the FIR, the fact reveals that respondent Police registered a case against the appellants in Crime No.535 of 2022 for the offences under Sections 147, 148, 364, 302 IPC r/w. 3(2)(v) and 3(2)(va) of SC / ST (POA) Act. The case of the prosecution is that the defacto complainant has given a complaint on 10.09.2022 before the respondent police alleging that on 08.09.2022, Thattanchavadi Kaliyamman Temple function was conducted and during that night, his brother by name Sakthivel requested to stop the idol procession before his street and at that time some people objected



the same. Further, it is alleged that the on 09.09.2022 at about 07.30 pm., the brother of the defacto complainant viz., Sakthivel was attacked by some persons and on search, the defacto complainant came to know that his brother's body was kept in Government Hospital Mortuary, Mundiypakkam. The defacto complainant lodged a complaint on 10.09.2022 before the respondent police against seven named persons and the appellants were subsequently arrested and remanded to judicial custody on 30.01.2023. It is further submitted that the other FIR named persons were arrested and released on bail by the Sessions Court itself. However, as far as the appellants herein are concerned, the Trial Court dismissed the bail petition on the ground that the defacto complainant objected to enlarge the appellants herein on bail since there is a life threat to him as well as to his family members. Further, it is submitted that the respondent police has not filed any application for cancellation of bail against the persons mentioned in para 7 of the impugned order. Under these circumstances, rejecting bail against the appellants herein is not in order. Moreover, it is submitted that the appellants are residing at Chennai and Pondicherry respectively at the time of alleged occurrence and that they were not at all found in the place of occurrence.



8.Considering the fact that the other FIR names persons were released on bail by the Sessions Court itself and also to substantiate the fact recorded in para 7 of the impugned order, the respondent police has not filed any application for the cancellation of the bail of the other accused by name Suman, Guna (Pattishda), Vasanth, Guna Kalathumedu and Ajith Kalathumedu and considering the the fact that the appellants were not at all present at the scene of occurrence and they were residing at Chennai and Pondicherry respectively at that alleged time and the appellants are in judicial custody from 30.01.2023, this Court is inclined to enlarge the appellants on bail.

9.Accordingly, the impugned order dated 20.03.2023 passed in Crl.M.P.No.346 of 2023 by the learned Sessions Judge, Special Court for Trial of Cases under SC / ST Act, Cuddalore is set aside and the appellants / accused are ordered to be released on bail on their executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, with two sureties each, for the like sum before the learned Judicial Magistrate No.II, Panruti.

(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 appellants shall not tamper with evidence or witness either during investigation or trial;

(c) the appellants shall appear before the above said Court in the first day of every month at 10.30 a.m., until further orders.

(d) the appellants 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 appellants in accordance with law as if the conditions have been imposed and the appellants 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.

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

18.04.2023

Internet : Yes/No
TK

To



- 1.The Sessions Judge
Special Court for Exclusive Trial of Cases
under SC & ST Act
Cuddalore.
- 2.The Deputy Superintendent of Police
Panruti Sub-Division
Panruti.
Pudupettai Police Station
Panruti, Cuddalore District.
- 2.Inspector of Police
Pudupettai,
Cuddalore District.
- 3.The Public Prosecutor
High Court of Madras.
- 4.The Superintendent
Central Prison
Cuddalore.



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V. SIVAGNANAM, J.

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