



Crl.A.No.494 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.06.2023

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

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1.Nagarajan

2.Vinoth

3.Sundar @ Joseph

4.Kavinkumar

5.Nishar

6.Naveeth

... Appellants

Vs.

1. The State represented by
the Deputy Superintendent of Police
Namakkal Sub-Division
Namakkal District.

2.Mr.Krishnakumar
Village Administrative Officer
Valavanthinadu Village
Kolli Hills Taluk
Namakkal District.

3.Sathya

... Respondents

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Prayer : Criminal Appeal filed under Sections 14-A(2) of SC and ST (POA) Act, 1989 read with 378 of Cr.P.C., to set aside the order dated 18.04.2023 passed by the Sessions Court and Special Court for SC/ST (POA) Act, Namakkal in C.M.P.No.196 of 2023 refusing bail to the appellants in connection with Crime No.24 of 2023 for the offences punishable under Sections 147, 148, 294(b), 364(A), 302 of IPC read with 3(2)(v) of SC/ST of POA Act, 2015 on the file of the respondent Police.

For Appellants : Mr.S.Senthil
For R1 : Mr.A.Gokulakrishnan
Additional Public Prosecutor
For R2 : No appearance
For R3 : Mr.N.Manoharan
Court appointed counsel

JUDGMENT

This Criminal Appeal has been filed challenging the order passed by the Sessions Court and Special Court for SC/ST (POA) Act, Namakkal in C.M.P.No.196 of 2023, dated 18.04.2023, in and by which, the learned Special Judge for SC/ST (POA) Act, Namakkal, has dismissed the bail application filed by the appellants under Section 439 of Cr.P.C.



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2. Learned counsel appearing for the appellants submitted that the respondent Police registered a case against the appellants in Crime No.24 of 2023 for the offences under Sections 147, 148, 294(b), 364(A), 302 of IPC read with 3(2)(v) of SC/ST of POA Amendment Act, 2015, in pursuance of the complaint given by the Village Administrative Officer, Valavanthinadu Village, Kollimalai, Namakkal District. In the complaint, it is alleged that on 05.03.2023 at about 23.00 p.m. in a lodge namely, Panimalar at Kollimalai in room No.1, the 2nd respondent/Village Administrative Officer found one Saravanan with injuries on his head, contusions on his back, neck and reportedly dead and hence, the Village Administrative Officer gave a complaint before the Police for taking action against the accused persons. Based on the complaint, the case has been registered against the appellants for the aforesaid offences. After investigation, the Inspector of Police, Valavanthinadu Police Station, arrested A1/Nagarajan. Based on his confession, other accused have been arrested. Learned counsel further submitted that there is no eye-witness to the occurrence and the appellants have been falsely implicated in the case. The appellants are in custody for more than 90 days and hence, seeks to set aside the impugned order and



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grant bail to the appellants.

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3. Mr.N.Manoharan, learned counsel, who has been appointed by the Court for representing the 3rd respondent, wife of the deceased Saravanan, submitted that the deceased Saravanan got loan from the accused persons. Since he has not repaid that amount, he was forcibly kidnapped, assaulted brutally and was murdered by the accused and thereafter, put him in the room and locked the room. He further submitted that being serious offence, bail should not be granted to the appellants and may be ordered speedy disposal of the case and seeks dismissal of the bail application.

4. When the matter is taken up for hearing, learned Additional Public Prosecutor appearing for the 1st respondent Police submitted that case has been registered against the accused persons in pursuance of the complaint given by the Village Administrative Officer, Valavanthinadu Village, Kollimalai on the allegation of death of one Saravanan. Though there is no eye-witness to the occurrence, the case of the prosecution is that there is a strong circumstantial evidence against the accused persons and based upon



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the confession statement of 1st accused, material used for the crime has been recovered and other accused have been arrested. He further submitted that investigation has been completed and final report has been filed and there is no reason to interfere with the order passed by the Special Court. Thus, he strongly objected to grant bail to the appellants and prayed for dismissal of this appeal.

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

6. On perusal of the records, it is noticed that the case has been registered by the respondent Police in Crime No.24 of 23 for the offences under Sections 147, 148, 294(b), 364(A), 302 of IPC read with 3(2)(v) of SC/ST of POA Amendment Act, 2015 in pursuance of the complaint given by the Village Administrative Officer on 05.03.2023 at about 23.30 hours. In the complaint, it is alleged that he was informed by the Manager of the lodge on 05.03.2023 at about 6.00 p.m. that some persons have taken the deceased Saravanan to room No.1, Panimalar lodge, assaulted him, which



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caused his death. Immediately, the 2nd respondent rushed to the hotel room and found Saravanan dead due to the injuries. Hence, the case has been registered for the aforesaid offences. After investigation, the respondent Police arrested A1/Nagarajan and obtained his confession statement. Based on his confession, A2 to A6 have been arrested. Further it is noticed that investigation has been completed and final report has been filed as per the submission of the learned Additional Public Prosecutor.

7. Considering the nature of the offences alleged against the appellants and taking note of the fact that there is no direct evidence to connect the accused persons with the crime, the prosecution relied upon only circumstantial evidence and also taking note of the fact that final report has been filed, I am inclined to grant bail to the appellants with some conditions.

8. At the time of arguments, learned counsel appearing for the 3rd respondent, wife of the deceased Saravanan, brought to the notice of this Court about Section 15-A of the Scheduled Castes and the Scheduled Tribes



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(Prevention of Atrocities) Act, 1989 and requested to give a direction to the Deputy Superintendent of Police, the Investigation Officer to comply the requirement of the said Section. Therefore, it is appropriate to extract Section 15-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the same is extracted hereunder:

“15-A. Rights of victims and witnesses.--(1) It shall be the duty and responsibility of the State to make arrangements for the protection of victims, their dependents, and witnesses against any kind of intimidation or coercion or inducement or violence or threats of violence.

(2) A victim shall be treated with fairness, respect and dignity and with due regard to any special need that arises because of the victims age or gender or educational disadvantage or poverty.

(3) A victim or his dependent shall have the right to reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding and the Special Public Prosecutor or the State Government shall inform the victim about any proceedings under this Act.

(4) A victim or his dependent shall have the right to apply to the Special Court or the Exclusive Special Court,



as the case may be, to summon parties for production of any documents or material, witnesses or examine the persons present.

(5) A victim or his dependent shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing.

(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Special Court or the Exclusive Special Court trying a case under this Act shall provide to a victim, his dependent, informant or witnesses--

(a) the complete protection to secure the ends of justice;

(b) the travelling and maintenance expenses during investigation, inquiry and trial;

(c) the social-economic rehabilitation during investigation, inquiry and trial; and

(d) relocation.

(7) The State shall inform the concerned Special Court or the Exclusive Special Court about the protection provided to any victim or his dependent, informant or



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witnesses and such Court shall periodically review the protection being offered and pass appropriate orders.

(8) Without prejudice to the generality of the provisions of sub-section (6), the concerned Special Court or the Exclusive Special Court may, on an application made by a victim or his dependent, informant or witness in any proceedings before it or by the Special Public Prosecutor in relation to such victim, informant or witness or on its own motion, take such measures including--

(a) concealing the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to the public;

(b) issuing directions for non-disclosure of the identity and addresses of the witnesses;

(c) take immediate action in respect of any complaint relating to harassment of a victim, informant or witness and on the same day, if necessary, pass appropriate orders for protection:

Provided that inquiry or investigation into the complaint received under clause (c) shall be tried separately from the main case by such Court and concluded within a period of two months from the date of receipt of the complaint:

Provided further that where the complaint under clause (c)



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is against any public servant, the Court shall restrain such public servant from interfering with the victim, informant or witness, as the case may be, in any matter related or unrelated to the pending case, except with the permission of the Court.

(9) It shall be the duty of the Investigating Officer and the Station House Officer to record the complaint of victim, informant or witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence, whether given orally or in writing, and a photocopy of the First Information Report shall be immediately given to them at free of cost.

(10) All proceedings relating to offences under this Act shall be video recorded.

(11) It shall be the duty of the concerned State to specify an appropriate scheme to ensure implementation of the following rights and entitlements of victims and witnesses in accessing justice so as--

(a) to provide a copy of the recorded First Information Report at free of cost;

(b) to provide immediate relief in cash or in kind to atrocity victims or their dependents;

(c) to provide necessary protection to the atrocity



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victims or their dependents, and witnesses;

(d) to provide relief in respect of death or injury or damage to property;

(e) to arrange food or water or clothing or shelter or medical aid or transport facilities or daily allowances to victims;

(f) to provide the maintenance expenses to the atrocity victims and their dependents;

(g) to provide the information about the rights of atrocity victims at the time of making complaints and registering the First Information Report;

(h) to provide the protection to atrocity victims or their dependents and witnesses from intimidation and harassment;

(i) to provide the information to atrocity victims or their dependents or associated organisations or individuals, on the status of investigation and charge sheet and to provide copy of the charge sheet at free of cost;

(j) to take necessary precautions at the time of medical examination;

(k) to provide information to atrocity victims or their dependents or associated organisations or individuals, regarding the relief amount;

(l) to provide information to atrocity victims or their



dependents or associated organisations or individuals, in advance about the dates and place of investigation and trial;

(m) to give adequate briefing on the case and preparation for trial to atrocity victims or their dependents or associated organisations or individuals and to provide the legal aid for the said purpose;

(n) to execute the rights of atrocity victims or their dependents or associated organisations or individuals at every stage of the proceedings under this Act and to provide the necessary assistance for the execution of the rights.

(12) It shall be the right of the atrocity victims or their dependents, to take assistance from the Non-Government Organisations, social workers or advocates.”

In view of the above, the Deputy Superintendent of Police is hereby directed to comply the requirement of Section 15-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Further, the Tamil Nadu State Legal Services Authority is hereby directed to pay the remuneration to **Mr.N.Manoharan**, the counsel appointed by the Court to represent the case of the 3rd respondent, wife of the deceased Saravanan, as



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per the Rules.

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9. Accordingly, this Criminal Appeal is allowed by setting aside the impugned order dated 18.04.2023 passed in C.M.P.No.196 of 2023 and bail is granted to the appellants with the following conditions :

(i) The appellants are directed to be enlarged on bail on condition that the appellants *shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only) each with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for SC/ST (POA) Act, Namakkal.*

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

(iv) the appellants shall report before the Trial Court on the first day of every week, until further orders.



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(v) the appellants shall not abscond during trial;

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(vi) on breach of any of the aforesaid conditions, the learned Trial Judge 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 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 persons thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

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Index : Yes/No

Internet : Yes/No

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V.SIVAGNANAM, J.

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To

1. The Sessions Judge
Special Court for SC/ST (POA) Act, Namakkal.
2. The Deputy Superintendent of Police
Namakkal Sub-Division
Namakkal District.
3. The Superintendent, Central Prison, Salem.
4. The Public Prosecutor, High Court of Madras, Chennai.
5. The Member Secretary
Tamil Nadu State Legal Services Authority
High Court, Chennai.

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