



Crl.A.No.847 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2023

CORAM:

THE HON'BLE MR.JUSTICE **M. NIRMAL KUMAR**

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1. V.Iyyappan
 2. Susil Kumar
 3. Ranjith
 4. Prithiviraj
- ... Appellants

Vs.

1. The Deputy Superintendent of Police,
O/o. Deputy Superintendent of Police,
Mayiladuthurai District.
2. State represented by
The Inspector of Police,
Manalmedu Police Station,
Mayiladuthurai District.
(Crime No.289 of 2023)

3. Amul Rajan
- ... Respondents

PRAYER: Criminal Appeal has been filed under Section 14(A) (2) of the Scheduled Castes and Schedules Tribes Act, 1989 pleaded to set aside the order dated 26.07.2023 in Crl.M.P.No.2368 of 2023 passed by the learned District and Sessions Judge, Nagapattinam and enlarge the appellants / petitioners on bail in Crime No.289 of 2023 on the file of the 2nd respondent



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herein.

For Appellants : Mr.S.John Josh
For Respondents 1 & 2 : Mr.A.Damodaran,
Additional Public Prosecutor

JUDGMENT

The Appellants/accused 1 to 4 in Crime No.289 of 2023 for offence under sections 341, 294(b), 324 & 506 (ii) of IPC r/w sections 3(1)(r), 3(1)(s) & 3(2)(va) of Schedule Caste and Schedule Tribe (Prevention of Atrocities) Amendment Act, 2015 have filed this appeal.

2. Notice has been ordered to the de-facto complainant/the third respondent which has been served to his address on 29.09.2023. Though the name of the de-facto complainant is printed in the cause list, there is no representation for the de-facto complainant/third respondent. It is seen that the de-facto complainant has got no serious objection to hearing his appeal. The appellants arrested and now in prison.



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3. The appellants were arrested by the respondent police on 27.06.2023 and are now in prison, hence, the case is taken up for consideration.

4. The complaint against the Appellants is that the de-facto complainant is an employee in Bharat Petrol Bunk as tanker lorry driver. On 26.06.2023, he was proceeding to his work at Vaitheeswaran Koil in his two wheeler, bearing No. TN68 T 7249. At that time, when he was proceeding near Pattavarthi Thalaigayiru, Mathagadi Main Road, at about 5.45 pm, two bikes, one bearing No.TN82 L 8793 and another marked NKC, came in the opposite direction in a rash and negligent manner, when questioned quarrel arose. When the de-facto complainant questioned the Appellants, the Appellants got down from their vehicles and on seeing the photo of Che Guevara, a revolutionary printed on his bike, started abusing the de-facto complainant saying that only people belonging to the schedule caste print such photos. They attacked the de-facto complainant with spade and left the place. The de-facto complainant called his brother and took treatment at Government Hospital, Mayilduthurai, and thereafter, a complaint was



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lodged. The respondent police registered a case against the Appellants

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5. The contention of the Appellants is that they are employed in Chennai and only on occasions, they visit their village. The Appellants are totally strangers to the de-facto complainant and how the Appellants know that the de-facto complainant belongs to the schedule caste community and for this reason, picked up quarrel and assaulted him is highly doubtful. The Appellants has nothing to do with the the offence. The Appellants are falsely implicated in this case and they were arrested on 27.06.2023. The first Appellant was detained under the Goondas Act, under the detention order passed in C.O.C.No.42 of 2023 by the District Collector and District Magistrate, Mayiladuthurai District dated 14.08.2023. Thereafter, now the detention has been revoked. He further submitted that in this case, the accused 2 to 4/appellants 2 to 4 were granted statutory bail by the lower court on 29.09.2023 and hence, limited his appeal and prayer with regard to the first appellant/A1 alone.



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6. Learned Additional Public Prosecutor strongly opposing the bail

application filed a counter, giving details of cases against the Appellant/A1

As regards the case, submitted that on registration of the complaint, the respondent police went to the scene of occurrence, drew rough sketch and prepared observation mahazar, in the presence of witnesses and examined the defacto complainant and other witnesses and recorded their statements.

The Appellants earlier involved in several cases viz., Cr.No.797 of 2023, 12 of 2022 & 26 of 2023 and all involving IPC offences and offences under Scheduled Castes and Schedules Tribes Act, 1989. He submitted that if this court is inclined to grant bail to the Appellant, it will be difficult to secure him, further law and order problem may arise.

7. Considering the submissions and the facts and circumstances of the case and it is seen that A2 to A4 in this case have been granted statutory Bail, by the lower court on 29.09.2023. As regards, the first Appellant/A1, the detention order passed under Act 14, now revoked in G.O. Rt.No.5284 dated 22.09.2023, a copy produced. Hence, this Court is inclined to grant bail to the 1st Appellant with the following conditions.



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(i)The first appellant shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) within a period of 15 working days from the date of receipt of a copy of this order with two sureties each for a like sum to the satisfaction of the learned District and Sessions Judge, Nagapattinam failing which, the Criminal Appeal for bail shall stand dismissed and on further condition that;

(ii)the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Judge may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(iii)the first Appellant to reside within the jurisdiction of the 2nd respondent police and shall appear before the 2nd respondent police daily at 10.30 am for a period of fifteen days, and thereafter, on every Monday at 10.30 am till the filing of final report in this case.

(iv)The first appellant shall not give any inconvenience or trouble knowingly or unknowingly to the 3rd respondent, failing which, the bail shall be cancelled without any further reference.

(v)the first appellant shall not commit any offences of similar nature;

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



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

(viii)on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the first appellant in accordance with law as if the conditions have been imposed and the appellant 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]***;

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

9.In view of the above, the order, dated 26.07.2023, made in Crl.M.P.No.2368 of 2023 is set-aside and the Criminal Appeal is, accordingly, allowed.

20.10.2023

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M. NIRMAL KUMAR, J.

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To

1. The learned District and Sessions Judge, Nagapattinam.
2. The Central Prison, Nagapattinam
3. The Public Prosecutor,
High Court, Madras.

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