



Crl.A.No.1289 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

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M.Anandarasu @ Anandaraj,
S/o.Manickam

... Appellant

Vs.

1.The Superintendent of Police,
Office of the Superintendent of Police,
Nagapattinam District.

2.The State
Represented by Inspector of Police,
Keelaiyur Police Station,
Nagapattinam.
(Crime No.252/2023).

3.M.Sundarraaj

... Respondent

PRAYER: Criminal Appeal is filed under Section 14(A) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, to set aside the order dated 03.11.2023 made in Crl.M.P.No.3383 of 2023 on the file of learned District and Sessions, Judge at Nagapattinam and consequently, enlarge the appellant on bail in the above Crime No.252/2023, pending investigation on the file of 1st respondent Police.

For Appellant	:	Mr.C.Deivasigamani for Ms.D.Geetha
For R1 & R2	:	Mr.A.Damodaran, Additional Public Prosecutor
For R3	:	No Appearance



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JUDGMENT

This Criminal Appeal has been filed to set aside the impugned order in Crl.M.P.No.3383 of 2023, dated 03.11.2023 passed by the learned District and Sessions Judge, Nagapattinam and enlarge the appellant on bail in connection with Crime No.252 of 2023 on the file of the 2nd respondent Police and pending investigation.

2.The appellant is an accused in Crime No.252 of 2023 for offence under Sections 294(b) of IPC r/w Sections 3(1)(r), 3(1)(s) & 3(1)(p) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

3.The gist of the case is that the appellant posted certain postings deprecating a political party leader of the marginalized society in the Facebook with an criminal intention to degrade the leader of the marginalized community. Hence, the 3rd respondent lodged a complaint along with the Facebook posting to the 2nd respondent and above said case registered against the appellant, thereafter, he was arrested and remanded to judicial custody.



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4.The learned counsel for the appellant submits that the appellant not posted any abusive or derogative contents against the leader. The 3rd respondent due to some previous enmity lodged the complaint against the appellant. The appellant is residing with his family in a rural area having little exposure to the outer world and he is not conversant to post such postings in the Facebook. He further submits the appellant will appear before the 2nd respondent Police and cooperate with the investigation. Hence, he prays for setting aside the impugned order and to grant bail.

5.The learned Additional Public Prosecutor appearing for the respondents 1 and 2 vehemently opposed the present bail application stating that there are six previous cases against the appellant, two Prohibition Offence cases, one case of Misappropriation, one for using abusive language, one case for threatening with criminal intimidation and one of case Prohibition of Child Marriage Act. He further submitted that the appellant is an History Sheeter in H.S.No.1 of 2017. The appellant is regularly indulging in criminal acts causing fear creating disharmony in the area. The appellant claims himself to be a leader of a particular group



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and thereby, threatening everybody in the village and surroundings. The release of the appellant would only further create law and order problem in the village, hence, opposed the appeal.

6. Notice served to the 3rd respondent through Police who received the same on 21.11.2023 and made acknowledgement. Despite printing his name in the cause list, no representation for the 3rd respondent either in person or by any counsel.

7. Considering the submissions and on perusal of the materials, it is seen that the appellant is in prison from 19.10.202. Though six previous cases projected against him in all the cases he is on bail. This is the first case of this nature. Now, the substantial part of the investigation progressed. Now, a request has been made to Facebook to confirm the postings made by the appellant and the IP details.

8. In view of the above, this Court is inclined to grant bail to the appellant subject to the following conditions.

(i) The appellant shall execute a bond for a sum of Rs.5,000/-



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(Rupees five thousand only) with two sureties each for a like sum to the satisfaction of the learned District and Sessions Judge, Nagapattinam/Special Judge for SC/ST Act Cases.

(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 appellant shall appear before the 2nd respondent Police daily at 10.30 a.m., for a period of two weeks and thereafter, every Monday at 10.30 a.m., for a period of three months, thereafter as and when required by the Police.

(iv)The 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 appellant shall not commit any offences of similar nature;

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

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



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(viii)on breach of any of the aforesaid conditions, the learned Judicial Magistrate/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 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 impugned order in Crl.M.P.No.3383 of 2023, dated 03.11.2023 passed by the learned District and Sessions Judge, Nagapattinam is set-aside and the Criminal Appeal is, accordingly, allowed.

01.12.2023

Index: Yes/No

Internet: Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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To

1.The Superintendent of Police,
Office of the Superintendent of Police,
Nagapattinam District.

2.The Inspector of Police,
Keelaiyur Police Station,



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Nagapattinam.

3.The Sub Jail,
Nagapattinam.

4.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.
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