



Crl. A.(MD)No.20 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 23.01.2023

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THE HONOURABLE MR. JUSTICE G.ILANGO VAN

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Prabhakaran

... Appellant

Vs.

1.State Represented by
The Deputy Superintendent of Police,
Periyakulam,
Theni District.

2.The Inspector of Police,
Devathanapatti Police Station,
Theni District.

3.Veeramani

... Respondents

Prayer : This Criminal Appeal is filed under Section 14(A)(ii) of SC/ST (POA) Act 1989 as amended by Act 1 of 2016, to call for the records relating to the order dated 15.12.2022 made in Cr.M.P.No.1358 of 2022 on the file of the learned Special Court for Trial of Cases under SC/ST (POA) Act, Theni and set aside the same and enlarge the appellant on bail.



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For Appellant : Mr.P.Athimoolapandian

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For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor for R1 and R2
Mr.Yasar Arafath
Legal Aid Counsel for R3

JUDGMENT

This Criminal Appeal has been filed to call for the records relating to the order dated 15.12.2022 made in Cr.M.P.No.1358 of 2022 on the file of the Special Court for Trial of Cases under SC/ST (POA) Act, Theni and set aside the same

2. The case of the prosecution is that the appellant along with the other accused have illegally sold the liquor bottles. Hence, the complaint.

3. The learned counsel for the appellant would submit that the appellant has been falsely implicated in this case and that the appellant is an innocent and he has not committed any offence as alleged by the prosecution. He would further submit that that the appellant is in custody from 26.10.2022 onwards and also submitted that regular bail was granted to the co-accused by the trial Court.



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4. The appellant moved bail application before the Special Court for Trial of Cases under SC/ST (POA) Act, Theni in Crl.M.P.No.1358 of 2022 and the same was dismissed on 15.12.2022, on the ground that the appellant has illegally sold the liquor bottles and he is having three previous cases.

5. Mr.B.Nambiselvan, learned Additional Public Prosecutor appearing for the respondents 1 and 2 submitted that bail was granted to the co-accused by the trial Court and also submitted that it is a case in counter case.

6. On reading of both FIRs shows that on the particular date of the occurrence, a dispute arose between the appellant and the defacto complainant with regard to informing the police about the illegal selling of arrack by the appellant, in which both of them attacked each other and sustained injuries.

7. Considering the above facts and circumstances of the case, grant of bail to the co-accused by the trial Court and also the fact that the appellant is in judicial custody from 26.10.2022, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 15.12.2022 made in Crl.M.P.No.1358 of 2022 on the file of the Special Court for Trial of Cases under SC/ST (POA) Act, Theni.



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8. Accordingly, the Criminal Appeal is allowed and the order dated 15.12.2022 made in Crl.M.P.No.1358 of 2022 on the file of the Special Court for Trial of Cases under SC/ST (POA) Act, Theni, is set aside. The appellant is ordered to be released on bail on her executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the Special Court for Trial of Cases under SC/ST (POA) Act, Theni, and on further conditions that:

[a]the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Sessions Judge may obtain a copy of their valid identity card to ensure their identity.

[b]the appellant shall appear before the respondent police daily at 10:30 a.m., until further orders.

[c]the appellant shall not tamper with evidence or witness either during investigation or trial.

[d]the appellant shall co-operate with the investigation.

[e]On breach of any of the aforesaid conditions, the learned Sessions Judge/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 Sessions Judge/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.



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[f] If the accused thereafter absconds, 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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To

- 1.The Superintendent,
District Prison,
Thekkampatti,
Theni District.
2. Special Court for Trial of Cases under SC/ST (POA) Act,
Theni.
- 3.The Deputy Superintendent of Police,
Periyakulam,
Theni District.
- 4.The Inspector of Police,
Devathanapatti Police Station,
Theni District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN,J

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