



Crl.A(MD)No.107 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.02.2023

CORAM

THE HONOURABLE MR. JUSTICE G.ILANGO VAN

Crl.A(MD)No.107 of 2023

Karnan

... Petitioner/Accused No.1

Vs.

State rep. by its:

**1.The Deputy Superintendent of Police,
Aundipatti,
Theni District.**

... 1st Respondent/Investigating Officer

**2.The Inspector of Police,
Vaigai Dam Police Station,
Theni District. (Crime No.4 of 2023)**

... 2nd Respondent/Complainant

3.Ajithkumar

... 3rd Respondent/Defacto Complainant/Victim

4.Srirengan

... 4th Respondent/Victim

Prayer : This Appeal is filed under Section 14A(2) of the Scheduled Castes and the Scheduled Tribes (POA) Act 1989 as amended by Act 1 of 2016, to call for the records relating to the order in Cr.M.P.No.119 of 2023, before the learned Special Court for Trial of Cases under SC/ST (POA) Act, Theni and the same was dismissed on 30.01.2023 and set aside the same and grant bail to the appellant by allowing this Criminal Appeal.



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For appellant : Mr.C.Susi Kumar
For R-1 & R-2 : Mr.B.Nambi Selvan
Government Advocate (Crl. Side)
For R3 & R4 : Mr.R.Ramanujam, Legal Aid Counsel.

J U D G M E N T

This Criminal Appeal has been filed to set aside the order of Special Court for Trial of Cases under SC/ST (POA) Act, Theni, made in Cr.M.P.No.119 of 2023, dated 30.01.2023 and allow this appeal by enlarging the appellant on bail in connection with Crime No.4 of 2023 on the file of the 2nd respondent.

2.The appellant, who was arrested and remanded to judicial custody on 18.01.2023, for the offences punishable under Sections 294(b), 323, 355, 506(ii) of IPC and Section 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST (POA) Amendment Act 1989 in Crime No.4 of 2023 on the file of the respondent police, seek appeal bail.

3.The case of the prosecution is that on 17.01.2023 at about 8.20 p.m., the defacto complainant along with his friends were witnessing the temple festival in the Village. At that time, accused came there, who belongs to



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forward community and abused them in filthy language by calling them by their caste name and also tried to assault them with knife. He also assaulted some of the persons. When the neighbours gathered and objected his behaviour, he also abused them and criminally intimidated. On the basis of the above said complaint, the case was registered in Crime No.4 of 2023. This appellant was arrayed as first accused. He was arrested and remanded into custody on 18.01.2023. He filed bail application before the Special Court. It was dismissed stating that counter case is also pending. Against, which this appeal has been preferred.

4.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor. Mr.R.Ramanujam, (Enrol No.3443 of 2019) learned counsel from the legal aid panel is appointed to defend the case on behalf of the third and fourth respondents and he was also heard.

5.The learned counsel for the appellant would submit that it is a case in counter arises out of the witnessing of the temple festival in the Village. In respect of the complaint given by this appellant, case in Crime No.5 of 2023 was registered against the defacto complainant party under Sections 147, 294(b), 323, 427 and 506(ii) of IPC. Reading of the counter complaint also



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shows that trouble arose between two groups of people at the time of temple festival. One group started making trouble and nuisance, which was objected by other group and it is also seen that both were under the influence of alcohol, exchanged their words in filthy language, calling by their caste name also. In view of the above said case in counter case. He would further submit that the petitioner is in custody for more than 25 days.

6.Since no bad antecedents was reported against the appellant and considering the period of incarceration, this Court is inclined to allow this petition and to grant bail to the petitioner.

7.Accordingly, the Criminal Appeal is allowed and the order, dated 30.01.2023 made in Crl.M.P.No.119 of 2023 on the file of the learned Sessions Judge, Special Court for Trial of SC / ST (PoA) Act Cases, Theni District, is set aside. The appellant is ordered to be released on bail on his 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 learned Sessions Judge, Special Court for Trial of SC / ST (PoA) Act Cases, Theni District, and on further condition that:



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[a] the appellant shall file an undertaking affidavit to the effect that he will not make any trouble to the defacto complainant in future;

[b] the appellant shall appear before the concerned court, 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 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 appellant in accordance with law, as if the conditions have been imposed and the appellant released on bail by the Trial Court itself 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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Index : Yes/No
Internet : Yes/No
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Note: Issue order copy on 16.02.2023.

To

- 1.The Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Theni,
- 2.The Deputy Superintendent of Police, Aundipatti, Theni District.



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3. The Inspector of Police,
Vaigai Dam Police Station,
Theni District.
4. The Superintendent, District Jail, Thekkampatti, Theni.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN,J.

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