



Crl.A(MD)No.152 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 03.03.2023

DELIVERED ON : 08.03.2023

CORAM

THE HONOURABLE MR. JUSTICE **G.ILANGO VAN**

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Kamalesh

... Appellant/1st Accused

Vs.

1.The State rep. by the
Deputy Superintendent of Police,
Kovilpatti, Thoothukudi.

2.The Inspector of Police,
Kovilpatti West Police Station,
Thoothukudi District. ... Respondents 1 & 2/Complainant

3.Barveen ... 3rd Respondent/Defacto Complainant

Prayer : This Appeal is filed under Section 14A(2) of SC/ST (Prevention of Atrocities) Act, 1989, to call for the records pertaining to the order, dated 07.02.2023 made in Cr.M.P.No.103 of 2023 on the file of the Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, 1989, Thoothukudi and to set aside the same and enlarge the appellant on bail in connection with Crime No.9 of 2023 on the file of the respondent police by allowing this Criminal Appeal.

For appellant : Mr.N.Karthik Kanna



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For R-1 & R-2 : Mr.B.Nambiselvan
Additional Public Prosecutor

For R3 : Mr.C.Suresh Kannan, Legal Aid Counsel

J U D G M E N T

Heard the learned Counsel appearing for the appellant, learned Government Advocate (Crl. Side) appearing for the respondents 1 & 2. Mr.C.Suresh Kannan, (Enrol No.2565 of 2012, Cell No.9994374259) learned Counsel from the legal aid panel is appointed to defend the case on behalf of the third respondent and also heard.

2.This Criminal Appeal has been filed to call for the records and set-aside the order passed by the learned learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, 1989, Thoothukudi, dated 07.02.2023 made in Cr.M.P.No. 103 of 2023 and enlarge the appellant on bail.

3.The appellant, who was arrested and remanded to judicial custody on 06.01.2023, for the offences punishable under Sections 302, 294(b), 506(ii) of IPC r/w. Section 3(2)(v) of SC/ST (POA) Amendment Act 2015, in Crime No.9 of 2023 on the file of the respondent police, seek appeal bail.



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The defacto complainant lodged a complaint stating that she was married to one Veerapandian in 2013. Later, there was a separation and she started living with one Anandaraj from 2019. Along with the above said Anandaraj, they were conducting cycle stand in Kovilpatti Bus stand. Originally, the above said stand was conducted by Sundarraaj and Ramamoorthy. Sundarraaj is the brother of the Anandaraj. Sundarraaj demanded back the above said stand stating that they will repay the money with interest. But the Anandaraj refused. Over which, there was a continuous trouble between them. On 05.01.2023 at about 2.00 a.m., Anandaraj was sleeping in the stand. The defacto complainant was sitting in the chair. At that time, the first accused, who is the son of the above said Sundarraaj and his friend Santhosh came to the stand. When enquiry was made by the Anandaraj both of them caused assault with aruval. Even though the defacto complainant tried to intervene, she was criminally intimidated. The accused also spread chilly powder in her eyes and escaped from that place. Anandaraj died on the spot. On the basis of the above said occurrence, the case was registered and the accused was arrested and remanded into judicial custody on 06.01.2023. Seeking bail, he moved Crl.M.P.No.103 of 2023 before the Special Court,



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that was dismissed. Against which, this present appeal has been preferred.

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5.CD file from the respondent police has been called for and perused. It is seen that over the taking of cycle stand in Kovilpatti Bus stand, the trouble has arisen between two brothers. In pursuance of the above said enmity only the above said offence said to have been committed.

6.To defend the case on behalf of the defacto complainant, legal aid counsel was appointed and also defended the case. The learned counsel for the appellant would submit that the appellant was a school going student, his date of birth is 15.04.2004. He also belongs to the scheduled caste community. So the offence under the provisions of Special Act is not at all attracted.

7.Perusal of CD file shows that this appellant was arrested on 06.01.2023. But investigation has not been completed so far. Considering the gruesome manner, in which, the above said offence said to have been taken place and investigation has not been completed so far, this Court is of the view that if the appellant is released on bail, there is every likelihood of absconding and hampering the witnesses. Even without going into the aspect



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as to whether the Special Act is attracted against the appellant or not, I find
no reason to enlarge the appellant on bail, now.

8. Accordingly, this criminal appeal is dismissed.

08.03.2023

Index : Yes/No
Internet : Yes/No
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To

1. The Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, 1989, Thoothukudi.
2. The Deputy Superintendent of Police,
Kovilpatti, Thoothukudi.
3. The Inspector of Police,
Kovilpatti West Police Station,
Thoothukudi District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN,J.

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