



Crl. A.(MD)No.220 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATE : 11.04.2023

CORAM

THE HONOURABLE MR. JUSTICE K.MURALI SHANKAR

Crl. A.(MD)No.220 of 2023

Selvathirumani

... Appellant/Petitioner/
Accused No.7

Vs.

1.The State represented by
The Assistant Commissioner of Police,
Tirunelveli City,
Tirunelveli.

2.The Inspector of Police,
Thatchanallur Police Station,
Tirunelveli.
(Crime No.228 of 2022)

3.Thangaraj

... Respondents/Complainants

Prayer : This Criminal Appeal is filed under Section 14A(2) of SC/ST (POA) Act, 1989 as amended by Act 1 of 2016, to call for the records pertaining to the order dated 01.02.2023 made in Crl.M.P.No.234 of 2023 on the file of the learned II Additional District and Sessions Judge (PCR), Tirunelveli and to set aside the same and enlarge the appellant on bail in connection with the Crime No.228 of 2022 on the file of the respondent police by allowing this Criminal Appeal.



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For Appellant : Mr.S.Mahadrapathy
For R1 & R2 : Mr.R.Sivakumar
Government Advocate (Crl. Side)
For R3 : Mr.R.Ramasamy
Legal Aid counsel

JUDGMENT

This Criminal Appeal is directed against the order passed in Crl.M.P.No.234 of 2023 dated 01.02.2023 by the learned II Additional District and Sessions Judge (PCR), Tirunelveli.

2. The case of the prosecution is that due to some previous enmity, on 06.08.2022, when the defacto complainant along with his son Petchairaja and his elder son Sivakumar and one Sudalaikumar were proceeding to Malapalayam, Kurichi for construction work, at about 09.20 a.m., when they are crossing Sai Baba Temple near Bye-pass road bridge one accused came in motorcycle and dashed Petchiraja's two wheeler and the other accused also attacked the said Petchiraja with deadly weapons and caused injuries. Subsequently, the said Petchiraja succumbed to the injuries on the spot itself. Hence, the second respondent registered a case against three unnamed persons



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in Crime No.228 of 2022 for the offences under Sections 341, 294(b), 302 and 506(2) IPC and Sections 3(l)(r), 3(l)(s) and 3(1)(v) of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

3. The learned counsel appearing for the appellant would submit that appellant name does not find place in the FIR and that only on the basis of the confession alleged to have been taken from the second accused, the appellant was implicated as seventh accused. He would further submit that the appellant was not present at the time of occurrence and only on the basis of conspiracy, he was implicated.

4. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the appellant is not having any previous cases. He would further submit that the investigation has already been completed and the charge sheet has already been laid and the case was taken on file in S.C.No.132 of 2022 pending on the file of the learned II Additional District and Sessions Judge (PCR), Tirunelveli,

5. The learned counsel appearing for the third respondent has raised objections to grant bail to the appellant.



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6. Considering the above facts and circumstances and also the facts that the appellant is in custody from 24.08.2022 and that the appellant is not having any previous cases for similar offence or serious offence, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 01.02.2023 made in Crl.M.P.No.234 of 2023 on the file of the learned II Additional District and Sessions Judge (PCR), Tirunelveli.

7. Accordingly, the Criminal Appeal is allowed and the order, dated 01.02.2023 made in Crl.M.P.No.234 of 2023 on the file of the learned II Additional District and Sessions Judge (PCR), Tirunelveli, is set aside. The appellant is ordered to be released on bail on his executing a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** with two sureties, each for a like sum to the satisfaction of the learned II Additional District and Sessions Judge (PCR), Tirunelveli, 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 concerned Court on all working days at 10.30 a.m., until further orders.



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[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]**.

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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K.MURALI SHANKAR, J.

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To

- 1.The Superintendent,
Central Prison,
Palayamkottai.
- 2.The II Additional District and Sessions Judge (PCR),
Tirunelveli.
- 3.The Assistant Commissioner of Police,
Tirunelveli City,
Tirunelveli.
- 4.The Inspector of Police,
Thatchanallur Police Station,
Tirunelveli.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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