



Crl. A.(MD)No.290 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATE : 21.04.2023

CORAM

THE HONOURABLE MR. JUSTICE K.MURALI SHANKAR

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

Maharaja

... Appellant

Vs.

1.The Assistant Commissioner of Police,
Junction Range, Tirunelveli City,
Tirunelveli.

2.The Inspector of Police,
Thatchanallur Police Station,
Tirunelveli City, Tirunelveli.

3.Thangaraj

... Respondents

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 passed in Cr.M.P.No.209 of 2023 on the file of the learned II Additional District and Sessions Judge (PCR), Tirunelveli, dated 13.02.2023 and set aside the same as illegal and enlarge the appellant on bail.

For Appellant : Mr.K.Sivabalan,

For R1 & R2 : Mr.A.Albert James,
Government Advocate (Crl. Side)



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For R3

: Mrs.P.Krishnaveni,
Legal Aid counsel

JUDGMENT

This Criminal Appeal is directed against the order passed in Crl.M.P.No.209 of 2023 dated 13.02.2023 on the file of 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 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.



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3. The learned counsel appearing for the appellant would submit that the appellant is innocent and he has not committed any offence as alleged by the prosecution. He would further submit that only on the basis of the confession of co-accused, he was implicated.

4. The learned Government Advocate (Criminal Side) appearing for the State would submit that the appellant is having five previous cases and the overtact alleged against the petitioner is that he has helped the other accused financially. He would further submit that the co-accused were already granted bail by this Court in Crl.A.(MD)Nos.229 and 220 of 2023, 24.03.2023 and 11.04.2023.

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

6. Considering the above facts and circumstances and also considering the fact that the co-accused were already granted bail by this Court and also taking note of the fact that the appellant is in custody from 24.08.2022, this Court is inclined to allow the Criminal Appeal by setting



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aside the order, dated 13.02.2023 made in Crl.M.P.No.209 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 13.02.2023 made in Crl.M.P.No.209 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.

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

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



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[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.

21.04.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
das



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K.MURALI SHANKAR, J.

das

To

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

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