



Crl. A.(MD)No.303 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATE : 28.04.2023

CORAM

THE HONOURABLE MR. JUSTICE K.MURALI SHANKAR

Crl. A.(MD)No.303 of 2023

Kamalesh

... Appellant/Accused No.1

Vs.

1.State represented by
The Deputy Superintendent of Police,
Kovilpatti,
Thoothukudi District.

2.The Inspector of Police,
Kovilpatti West Police Station,
Thoothukudi District.
(Crime No.09 of 2023)

... Respondents 1 and 2/
Complainants

3.Barveen

... 3rd Respondent/Defacto
Complainant

Prayer : This Criminal Appeal is filed under Section 14-A(2) of SC/ST Act, to set aside the order dated 21.03.2023 made in Crl.M.P.No.252 of 2023 on the file of Special Court for Trial of Cases under SC/ST (POA) Act, 1989, Thoothukudi and enlarge the appellant on bail in Crime No.09 of 2023 on the file of the second respondent.



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For Appellant : Mr.M.Jothi Basu
For R1 & R2 : Mr.A.Albert James
Government Advocate (Crl. Side)
For R3 : M/s.D.Saranya
Legal Aid Counsel

JUDGMENT

This Criminal Appeal is directed against the order passed in Cr.M.P.No.252 of 2023 dated 21.03.2023 by the learned Sessions Judge, Special Court for trial of cases under SC/ST (PoA) Act, Thoothukudi (FAC).

2. The case of the prosecution is that due to some dispute with regard to vacating the cycle stand, on 05.01.2023 at about 02.00 a.m., the appellant along with other accused had murdered one Anandaraj and when the third respondent/defacto complainant tried to stop the accused, they had also abused her in filthy language and on that basis, FIR came to be registered against two persons including the appellant herein in Crime No.9 of 2023 for the offences under Sections 302, 294(b) and 506(2) IPC and Section 3(2)(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 the appellant belongs to SC community and hence SC/ST act cannot be attracted, that the appellant is in judicial custody from 06.01.2023 and that the second accused juvenile was already released on bail.

4. The learned Government Advocate (Criminal Side) appearing for the respondents 1 and 2 would submit that charge sheet has already been filed before the concerned Court and the same is yet to be taken on file. He would further submit that the appellant is not having any previous cases.

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 the facts that the appellant is in judicial custody from 06.01.2023 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 21.03.2023 made in Cr.M.P.No.252 of 2023 on the file of the learned Sessions



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Judge, Special Court for trial of cases under SC/ST (PoA) Act, Thoothukudi

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7. Accordingly, the Criminal Appeal is allowed and the order dated 21.03.2023 made in Cr.M.P.No.252 of 2023 on the file of the learned Sessions Judge, Special Court for trial of cases under SC/ST (PoA) Act, Thoothukudi (FAC), 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 Special Court for trial of cases under SC/ST (POA) Act, Thoothukudi, 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 stay at Viluppuram and report before the Inspector of Police, Town Police Station, Viluppuram daily at 10.30 a.m. for a period of one month and thereafter appear before the respondent police daily 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.

28.04.2023

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 Sessions Judge,
Special Court for trial of cases under SC/ST (PoA) Act,
Thoothukudi (FAC).
- 3.The Deputy Superintendent of Police,
Kovilpatti,
Thoothukudi District.
- 4.The Inspector of Police,
Kovilpatti West Police Station,
Thoothukudi District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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Dated : 28.04.2023