



Crl. A.(MD)No.382 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATE : 16.06.2023

CORAM

THE HONOURABLE MR. JUSTICE K.MURALI SHANKAR

Crl. A.(MD)No.382 of 2023

Shanmugavel

... Appellant/Petitioner/
Accused No.4

Vs.

1.The State represented by
The Deputy Superintendent of Police,
Sub-Division,
Thoothukudi Town.

2.The Inspector of Police,
South Police Station,
Thoothukudi District.
(Crime No.618 of 2022)

... Respondents/Respondents/
Complainant

3.Ratha

... 3rd Respondent/Defacto
Complainant

Prayer : This Criminal Appeal is filed under Section 14A(2) of SC/ST Act, to call for records relating to Crl.M.P.No.340 of 2023 dated 25.04.2023 on the file of the Special Court for Trial of Cases under SC/ST (PoA) Act, Thoothukudi and set aside the same and grant bail to the appellant by allowing the criminal appeal.



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For Appellant : Mr.M.Pandian
For R1 & R2 : Mr.R.Sivakumar
Government Advocate (Crl. Side)
For R3 : Mr.R.Karunanithi

JUDGMENT

This Criminal Appeal has been filed to set aside the order passed by the learned Sessions Judge, Special Court for trial of cases under SC/ST (PoA) Act, Thoothukudi (FAC), in Crl.M.P.No.340 of 2023 dated 25.04.2023 and enlarge the appellant on bail in Crime No.618 of 2022.

2. The case of the prosecution is that the appellant along with the other accused had unlawfully assembled and abused the defacto complainant's son and her husband by using their caste name and that during the course of the quarrel, the appellant along with the other accused had wrongfully restrained the defacto complainant's son and murdered the defacto complainant's husband. Hence, the second respondent registered a case against six persons including the appellant in Crime No.618 of 2022 for the offences under Sections 147, 148, 294(b), 324, 307, 302, 506(2), 109 and 120B IPC and Sections 3(l)(r), 3(l)(s) and 3(2)(v) of the Scheduled Caste and the Scheduled Tribes (POA) Amendment Act, 2015.



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3. No doubt, the appellant's earlier application for bail in Crl.A. (MD)No.228 of 2023 was ordered to be dismissed vide order dated 11.04.2023.

4. 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 also belongs to SC community and that the accused 1 to 3 were detained under Goondas Act.

5. The learned Government Advocate (Criminal Side) appearing for the respondents 1 and 2 would submit that the appellant is having one previous case for the offence under Section 506(2) IPC. He would further submit that the prosecution has deleted the accused 5 and 6 from the case and that investigation has already been completed.

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



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7. Considering the above facts and circumstances and also the fact that the appellant is in judicial custody from 02.02.2023, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 25.04.2023 made in Crl.M.P.No.340 of 2023 on the file of the learned Sessions Judge, Special Court for trial of cases under SC/ST (PoA) Act, Thoothukudi (FAC).

8. Accordingly, the Criminal Appeal is allowed and the order dated 25.04.2023 made in Crl.M.P.No.340 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.



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[b]the appellant shall stay at Trichy and report before the Inspector of Police, Cantonment Police Station, Trichy daily at 10.30 a.m. for a period of 30 days and thereafter appear before the respondent police 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 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 is 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.

16.06.2023

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

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Dated : 16.06.2023