



*CrI. A.(MD)No.401 of 2023*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 07.06.2023

CORAM

**THE HONOURABLE MR. JUSTICE K.MURALI SHANKAR**

CrI. A.(MD)No.401 of 2023

M.Pandi @ Paul Pandi

... Appellant/  
Accused No.7

Vs.

1.The Deputy Superintendent of Police,  
Kovilpatti Sub Division,  
Thoothukudi District.

2.The State represented by  
The Inspector of Police,  
Kayathar Police Station,  
Thoothukudi District.  
(Crime No.374 of 2022)

...Respondents 1&2/  
Complainant

3.Rajeshwari

...3<sup>rd</sup> Respondent/  
Defacto  
Complainant

**Prayer :** This Criminal Appeal is filed under Section 14A(2) of SC & ST (Prevention of Atrocities) Amendment Act, 2015, to call for the records and set aside the order passed in Cr.M.P.No.390 of 2023 dated 08.05.2023 passed by the learned Special Sessions Judge (Special Court for Trial of Scheduled Caste and Scheduled Tribe Act Cases), Thoothukudi (FAC), Thoothukudi District and to enlarge the appellant on bail.



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For Appellant : Mr.R.Karunanidhi  
For R1 & R2 : Mr.A.Albert James  
Government Advocate (Crl. Side)  
For R3 : Mr.T.Selvan  
Legal Aid Counsel

### **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.390 of 2023 dated 08.05.2023 and enlarge the appellant on bail in Crime No.374 of 2022.

2. The case of the prosecution is that on 04.10.2022 at about 07.30 p.m., the appellant/seventh accused along with the other accused had assembled unlawfully with deadly weapons and abused the third respondent/defacto complainant by using her caste name and attacked the third respondent's husband, namely, Azhagudurai and murdered him, who belongs to Scheduled Caste community and on the basis of the complaint given by the third respondent, FIR came to be registered in Crime No.374 of 2022 for the offences under Sections 147, 148, 294(b), 302 and 506(2) IPC, Section 4 of



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TN Prohibition of Harassment of Women Act, 2002 and Sections 3(l)(r), 3(l)(s) and 3(2)(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 similarly placed the fourth accused was already granted bail by this Court in Crl.A.(MD)No.232 of 2023 dated 31.03.2023. He would further submit that there is specific overt act alleged against the third accused and that the other accused including the appellant are shown as the members of the unlawful assembly.

4. The learned Government Advocate (Criminal Side) appearing for the respondents 1 and 2 would submit that the respondent, after completing the investigation, has already filed the final report and the case was taken on file in S.C.No.2 of 2023 and the same is pending on the file of the Special Court for trial of cases under SC/ST (PoA) Act, Thoothukudi. 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.



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6. Considering the above facts and circumstances and also the facts that the appellant is in judicial custody from 05.10.2022, that the appellant is not having any previous cases, that similarly placed co-accused(A4) was already granted bail by this Court and that investigation has already been completed and charge sheet came to be filed and the same was taken on file in S.C.No.2 of 2023, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 08.05.2023 made in Crl.M.P.No.390 of 2023 on the file of the Special Court for trial of Cases under SC/ST (POA) Act, Thoothukudi (FAC), Thoothukudi District.

7. Accordingly, the Criminal Appeal is allowed and the order dated 08.05.2023 made in Crl.M.P.No.390 of 2023 on the file of the Special Court for trial of Cases under SC/ST (POA) Act, Thoothukudi (FAC), Thoothukudi District, 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



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Sessions Judge may obtain a copy of their valid identity card to ensure their identity.

[b]the appellant shall report before the trial 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.

[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.

**07.06.2023**

NCC : Yes/No  
Index : Yes/No  
Internet : Yes/No  
csm



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**K.MURALI SHANKAR, J.**

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To

- 1.The Superintendent of Prison,  
Perurani,  
Thoothukudi District.
- 2.The Sessions Judge,  
Special Court for trial of Cases under SC/ST (POA) Act,  
Thoothukudi (FAC), Thoothukudi District.
- 3.The Deputy Superintendent of Police,  
Kovilpatti Sub Division,  
Thoothukudi District.
- 4.The Inspector of Police,  
Kayathar Police Station,  
Thoothukudi District.
- 5.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

**Order made in**  
**Crl. A.(MD)No.401 of 2023**

Dated : 07.06.2023