



*Crl. A.(MD)No.403 of 2023*

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 21.06.2023

Delivered on : 26.06.2023

CORAM

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

Crl. A.(MD)No.403 of 2023

Gokul @ Gopi

... Appellant/  
Accused No.5

Vs.

1.The State represented by  
The Deputy Superintendent of Police,  
Othakadai Police Station,  
Madurai District.  
(Crime No.608 of 2021)

... 1<sup>st</sup> Respondent/  
Complainant

2.M.Sathya

... 2<sup>nd</sup> Respondent/  
Defacto  
Complainant

*(R2 is impleaded as per order of this Court dated  
16.06.2023 in Crl.M.P.(MD)No.8632 of 2023in  
Crl.A.(MD)No.403 of 2023)*

**Prayer :** This Criminal Appeal is filed under Section 14A(2) of SC/ST Act, to set aside the order dated 27.04.2023 made in Cr.M.P.No.1285 of



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2023 on the file of the learned III Additional District and Sessions Judge (PCR), Madurai District and enlarge the appellant on bail in Crime No. 608 of 2021 on the file of the Inspector of Police, Othakadai Police Station as against the appellant/accused No.5 and allow this criminal appeal.

For Appellant : Mr.S.Sundarapandian  
For R1 : Mr.A.Albert James  
Government Advocate (Crl. Side)  
For R2 : No appearance

### **JUDGMENT**

This Criminal Appeal has been filed to set aside the order passed by the learned III Additional District and Sessions Judge (PCR), Madurai, in Crl.M.P.No.1285 of 2023 in Spl.S.C.No.50 of 2022 dated 27.04.2023 and enlarge the appellant on bail in Crime No.608 of 2021.

2. The case of the prosecution is that there existed some dispute between the second respondent's brother and one Balamurugan and Raja, due to which, on 13.11.2021, the appellant along with the said Balamurugan and Raja and other accused had murdered the second respondent's brother and one Singaravelu and that on the basis of the



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complaint given by the second respondent, FIR came to be registered in Crime No.608 of 2021.

3. It is evident from the records that on the basis of the complaint lodged by the second respondent, FIR came to be registered in Crime No.608 of 2021 for the offences under Sections 120B, 147, 148, 302 and 341 IPC altered into Sections 147, 148, 149, 120B, 341, 364 and 302 IPC and Section 3(2)(v) of the SC/ST (POA) Act, that the appellant was arrested and he was released on bail in Crl.M.P.No.232 of 2022 dated 24.02.2022 with certain conditions, that since the appellant has not complied with the conditions and another case came to be registered against him in Crime No.103 of 2022, the respondent police has filed an application to cancel the bail already granted to the appellant and the same was allowed and bail granted to the appellant was cancelled and that subsequently, the appellant was arrested on 14.06.2022 and he is in judicial custody till now.

4. No doubt, the appellant moved a bail application in Crl.M.P.No.1285 of 2023 and the same was ordered to be dismissed by



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the learned III Additional District and Sessions Judge, vide order dated 27.04.2023. Aggrieved by the dismissal, the accused has now preferred the present appeal.

5. It is not in dispute that subsequently, the respondent police, after completing the investigation, has laid the charge sheet and the same was taken on file in Spl.S.C.No.50 of 2022 and the same is pending on the file of the III Additional District and Sessions Court (PCR), Madurai.

6. Despite the receipt of notice, the second respondent has not turned up.

7. Heard the learned counsel appearing for the appellant and the learned Government Advocate (Criminal Side) appearing for the first respondent.

8. As rightly contended by the learned counsel appearing for the appellant, the appellant has already been granted bail for the case registered in Crime No.608 of 2021, but the same was subsequently cancelled.



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9. It is further evident that after the cancellation of bail, the appellant was arrested on 14.06.2022 and remanded to judicial custody.

10. The learned counsel appearing for the appellant would submit that there was a quarrel between the appellant and one Vijayan, that the said Vijayan attacked the appellant in several places with aruval and hence, the appellant, who suffered grievous injuries, has been admitted in Government Rajaji Hospital, Madurai, but the respondent police registered a false case against the appellant in Crime No.103 of 2022, that on the basis of the complaint given by the appellant, case in counter came to be registered in Crime No.104 of 2022 and that except the above subsequent case registered in Crime No.103 of 2022, the appellant is not having any previous cases.

11. Considering the above facts and circumstances and also the fact that the appellant is in judicial custody from 14.06.2022, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 27.04.2023 made in Crl.M.P.No.1285 of 2023 on the file of the III Additional District and Sessions Court (PCR), Madurai.



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12. Accordingly, the Criminal Appeal is allowed and the order dated 27.04.2023 made in Crl.M.P.No.1285 of 2023 on the file of the III Additional District and Sessions Court (PCR), Madurai, 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 III Additional District and Sessions Judge (PCR), Madurai, 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 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.



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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 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.

**26.06.2023**

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,  
Central Prison,  
Madurai.
- 2.The III Additional District and Sessions Court (PCR),  
Madurai.
- 3.The Deputy Superintendent of Police,  
Othakadai Police Station,  
Madurai District.
- 4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

**Pre-delivery order made in**  
**Crl. A.(MD)No.403 of 2023**

Dated : 26.06.2023