



Crl. A.(MD)No.405 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 13.06.2023

Delivered on : 16.06.2023

CORAM

THE HONOURABLE MR. JUSTICE K.MURALI SHANKAR

Crl. A.(MD)No.405 of 2023

Veeranan

: Appellant

Vs.

1.State rep.by

The Deputy Superintendent of Police,
Melur Sub Division,
Melavalavu Police Station,
Madurai District.
Crime No.39 of 2020.

: 1st Respondent/Complainant

2.Lakshmanan

: 2nd Respondent /Defacto
Complainant

Prayer : This Criminal Appeal is filed under Section 14A(2) of SC/ST (POA) Amendment Act, 2015, to set aside the impugned order passed by the learned III Additional District and Sessions Judge (PCR), Madurai, dated 12.05.2023 in Crl.M.P.No.1336 of 2023 in Spl.S.C.No.25 of 2021 and pleaded to grant bail to the appellant and enlarge him on bail in connection with the Crime No.39 of 2020 on the file of the Melavalavu Police Station, Madurai District.



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For Appellant : Mr.N.Dilip Kumar

For 1st Respondent : Mr.A.Albert James,
Government Advocate (Crl. Side)

For 2nd Respondent : No Appearance

JUDGMENT

This Criminal Appeal has been filed to set aside the order passed in in Crl.M.P.No.1336 of 2023 in Spl.S.C.No.25 of 2021, dated 12.05.2023, on the file of the learned III Additional District and Sessions Judge (PCR), Madurai, and enlarge the appellant on bail in connection with Crime No.39 of 2020, on the file of the first respondent Police.

2. The case of the prosecution is that there existed property dispute between the defacto complainant and the first accused and the civil Court has granted relief in favour of the defacto complainant; that the defacto complainant had installed boundary stones demarcating his property in the presence of Government Officials; that due to previous enmity, the first accused started causing hindrance to the defacto complainant's friend Suresh, who is having property adjacent to the defacto complainant's land; that on 24.02.2020 at about 05.30 pm, when the defacto complainant and his friend



Suresh, were witnessing the work of installing boundary stones, the accused including the appellant had attacked the defacto complainant with stick and billhook and caused injuries and also grabbed the cell phones and snatched five sovereigns of gold chain of Suresh and that they have also abused the defacto complainant in filthy language by using caste name. On the basis of the complaint lodged, FIR came to be registered in Crime No.39 of 2020 against five persons for the offences under Sections 147, 148, 447, 341, 294(b), 323, 324, 307 IPC r/w Sections 3(2)(v) of Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Amendment Act.

3. It is evident from the records that the appellant and other accused have moved bail applications in Crl.M.P.Nos.445 and 447 of 2020 before the III Additional District and Sessions Court (PCR) Madurai and the learned Judge has granted bail on 09.09.2020; that subsequently, the defacto complainant has filed petitions in Crl.O.P.(MD)Nos.10559 and 10561 of 2020 for cancellation of bail and this Court vide order dated 31.03.2023, cancelled the bail granted by the Sessions Court and that thereafter, the appellant has surrendered before the concerned Court and he was remanded to judicial custody and that he is judicial custody till now.



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4. The learned counsel appearing for the appellant would submit that subsequent to the present occurrence another case came to be registered in Crime No.202 of 2022 for the murder of the said Suresh; that the petitioner is not an accused in the said case, but the co-accused in the case on hand are the accused in the murder case; that the appellant has fallen down from coconut tree on 24.02.2021 and he suffered serious injuries to his spine and head and that he cannot attend to his personal needs without any attendant. He would further submit that after remanding him to judicial custody, he was kept in Prison Hospital and thereafter, sent to Government Rajaji Hospital, Madurai and that after undergoing a surgery, he has been taking in-patient treatment and that therefore, the petitioner may be granted bail.

5. The learned counsel appearing for the second respondent has appeared in person and raised objections to release the appellant on bail.

6. When the matter was taken up for hearing on 07.06.2023, considering the submissions made by the learned counsel for the appellant and also the learned Government Advocate (Criminal Side), the prosecution was directed to get a report from the Jail Doctor with regard to the health condition



of the appellant and the treatment given so far and posted the matter to
09.06.2023.

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7. When the matter was taken up for hearing on 09.06.2023, the learned counsel for the appellant submitted that the appellant's health condition has become deteriorated and has been taking inpatient treatment in Government Rajaji Hospital, Madurai. But the learned Government Advocate (Criminal Side) has submitted that the appellant, after undergoing a minor surgery has recovered and he is in good health condition.

8. Considering the above submissions, the Registry was directed to call for a report from the Dean of Medical College Hospital, Madurai, with regard to the health condition of the appellant and the treatment given to him so far and the Superintendent of Prison, Madurai was also directed to submit the records with regard to the treatment given to the appellant in the jail hospital.

9. In pursuance of the said directions, the Dean, Government Rajaji Hospital, Madurai has submitted a Medical report issued by the Professor of Plastic Surgery Department, Government Rajaji Hospital, Madurai, wherein it



has been stated that the appellant was admitted in the hospital on 25.04.2023 at about 07.30 pm; that the appellant's both legs below hip got paralysed and was having Ischeal Pressure Sore Right Side; that after giving necessary treatment, he was shifted to the department of Plastic Surgery, that required surgery was conducted on 25.05.2023 and that the appellant has been taking continuous in-patient treatment.

10. The learned Government Advocate (Criminal Side) would submit that considering the nature and gravity of the offence alleged, the appellant is not entitled to get bail, but, on considering his health condition, his application may be considered. He would further submit that the respondent, after completing the investigation, has also laid the charge sheet and the same was taken on file in Spl.S.C.No.25 of 2021 and the same is pending on the file of the III Additional District and Sessions Judge (PCR), Madurai.

11. Considering the above facts and circumstances of the case and also taking note of the fact that the appellant's both legs below the hip got paralysed and has been taking inpatient treatment from 25.04.2023 in Government Rajaji Hospital, Madurai, this Court is inclined to grant bail to the appellant.



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12. Accordingly, the Criminal Appeal is allowed and the order, dated 12.05.2023 made in Crl.M.P.No.1336 of 2023 in Spl.S.C.No.25 of 2021 on the file of the learned III Additional District and Sessions Judge (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] after recovery, the appellant is directed to appear before the trial Court on all hearing dates, without fail;

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

[d] the appellant shall co-operate for the trial.

[e] On breach of any of the aforesaid conditions, the learned Sessions Judge/Trial Court is entitled to take appropriate action against the appellants in accordance with



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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.

16.06.2023

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

To

- 1.The III Additional District and Sessions Judge (PCR),
Madurai.
- 2.The Deputy Superintendent of Police,
Melur Sub Division,
Melavalavu Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

das

Pre-delivery order made in
Crl.A.(MD)No.405 of 2023

16.06.2023