



Crl. A.(MD)No.427 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 16.06.2023

CORAM

THE HONOURABLE MR. JUSTICE K.MURALI SHANKAR

Crl. A.(MD)No.427 of 2023

Ayyankalai @ Vettian

... Appellant/Petitioner/
Accused No.2

Vs.

1.The State represented by through
The Assistant Commissioner of Police,
Tallakulam Range,
Madurai.

2.The Inspector of Police,
Koodalpudur Police Station,
Madurai District.
(Crime No.212 of 2021)

3.Arumugam

... Respondents/Complainants

Prayer : This Criminal Appeal is filed under Section 14A(2) of SC/ST Act, 1989, to call for the records pertaining to the order dated 10.04.2023 made in Crl.M.P.No.811 of 2023 on the file of the learned IIIrd Additional District and Sessions Judge (PCR), Madurai and to set aside the same and enlarge the appellant on bail in connection with the Crime No.212 of 2021 on the file of the respondent police by allowing this criminal appeal.



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

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.811 of 2023 in Spl.S.C.No.173 of 2021 dated 10.04.2023 and enlarge the appellant on bail.

2. The case of the prosecution is that due to previous enmity, the appellant along with other accused had murdered the defacto complainant's son. Hence, the second respondent registered a case in Crime No.212 of 2021 for the offences under Sections 147, 149 and 302 IPC altered into Sections 148, 342, 302, 109, 120(b), 147 and 149 IPC, Sections 3(1)(r) and 3(2)(v) of SC/ST Act and Section 83(2) of JJ Act. The respondent police, after completing the investigation, has filed a final report and the same was taken on file in Spl.S.C.No.173 of 2021 and is pending on the file of the III Additional District and Sessions Judge (PCR), Madurai.



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3. The learned counsel appearing for the appellant would submit that after the case was taken on file in Spl.S.C.No.173 of 2021, the appellant has been appearing continuously, that since the appellant had not appeared on 19.10.2022, Non-Bailable Warrant was ordered to be issued, that the warrant was executed and the appellant was arrested on 10.03.2023 and that the appellant is in judicial custody till now.

4. The learned Government Advocate (Criminal Side) appearing for the respondents 1 and 2 would submit that the appellant is having three previous cases, which includes two cases under NDPS Act.

5. The learned counsel appearing for the third respondent would submit that the appellant is the main accused and that he has been continuously threatening the third respondent and others for lodging the above complaint.

6. It is seen from the records that the appellant was already released on bail and that since he has not turned up for the hearing on 19.10.2022, Non-Bailable Warrant was ordered to be issued and on



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execution of the same, he was arrested and remanded to judicial custody on 10.03.2023.

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7. Considering the facts and circumstances of the case and also the fact that the appellant is in judicial custody from 10.03.2023, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 10.04.2023 made in Crl.M.P.No.811 of 2023 on the file of the learned III Additional District and Sessions Judge (PCR), Madurai.

8. Accordingly, the Criminal Appeal is allowed and the order dated 10.04.2023 made in Crl.M.P.No.811 of 2023 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



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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.

[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
csm



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K.MURALI SHANKAR, J.

csn

To

- 1.The Superintendent,
Central Prison,
Madurai.
- 2.The III Additional District and Sessions Judge (PCR),
Madurai.
- 3.The Assistant Commissioner of Police,
Tallakulam Range,
Madurai.
- 4.The Inspector of Police,
Koodalpudur Police Station,
Madurai District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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Dated : 16.06.2023