



Crl.A.(MD).No.658 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.A.(MD).No.658 of 2023

Santhikumar

... Appellant / Accused No.11

Vs.

1.The State of Tamil Nadu,
Rep by Deputy Superintendent of Police,
Othakadai Police Station,
Madurai District.
(Crime No.195/2023)

... 1st Respondent / Investigating
Officer

2.The Inspector of Police,
Othakadai Police Station,
Madurai District.
(Crime No.195/2023)

... 2nd Respondent / Complainant

3.Dhandapani

... 3rd Respondent / De-facto
Complainant

PRAYER : Criminal Appeal filed under Section 14 A (2) of SC/ST (Prevention of Atrocities) Act, 1989 to call for the records relating to Crl.M.P.No.2183 of 2023 in Cr.No.195 of 2013 on the file of the III Additional District and Sessions Judge, (PCR), Madurai dated 25.07.2023



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and set aside the same and enlarge the appellant/accused No.11 on bail in connection with Crime No. 195 of 2023 on the file of the second respondent by allowing this criminal appeal.

For Appellant : Mr.S.Madhan Kumar

For Respondents : Mr.R.Sivakumar
Government Advocate (Crl.Side)
For R1 & R2

JUDGMENT

This Criminal Appeal has been filed to set aside the impugned order passed in Crl.M.P.No.2183 of 2023 dated 25.07.2023, on the file of the III Additional District and Sessions Court (PCR Act), Madurai, and enlarge the appellant on bail in connection with Crime No.195 of 2023, on the file of the second respondent police.

2.1. According to the prosecution, the appellant and the other accused said to have committed the offences under Sections 147, 148, 294(b), 452, 323, 324 and 506(2) of IPC, Section 3 of the Public Property (Prevention of Damage & Loss) Act, 1992, and Sections 3(1)(r) and 3(1)(s)



& 3(2)(va) of SC/ST (Prevention of Atrocities) Amendment Act, 2015.

2.2. According to the prosecution, on 02.06.2023, temple festival was conducted in Sri Kalamega Perumal Kovil at Thirumohur, Madurai District. In the said festival, when the cultural programme namely, 'Aadal Padal' event was conducting, there was a clash between two community people and a number of vehicles belongs to one of the community were destroyed. Because of that, there was fight between two community people. In the said occurrence, number of persons have sustained injuries. So, they were admitted in the Rajaji Government Hospital, Madurai. Hence, the first respondent Police registered a case in Crime No.195 of 2023 against the appellant and the other accused persons, for the offences under Sections 147, 148, 294(b), 452, 323, 324 and 506(2) of IPC, Section 3 of the Public Property (Prevention of Damage & Loss) Act, 1992, and Sections 3(1) (r) and 3(1)(s) & 3(2)(va) of SC/ST (Prevention of Atrocities) Amendment Act, 2015. Hence, he has filed a petition for bail in Cr.M.P.No.2183 of 2023 and the same was dismissed by the III Additional District & Sessions Court (PCR Cases), Madurai, on 25.07.2023. Challenging the same, the appellant



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has preferred this Criminal appeal.

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3. The learned counsel for the appellant would submit that the co-accused were released on bail by the Court below. Against which, no further appeals were filed by the complainant. As on date, peace is prevailing in the locality and the injured also discharged from the hospital. Under the said circumstance, he seeks to grant bail to the appellant.

4. The learned Government Advocate (Criminal Side) appearing for the State would submit that there are initially 24 accused and further 6 accused were added. The appellant was arrayed as A11. He would further submit that there is some dispute arose between two groups of people and there is rival fight between two communities. However, he fairly conceded that some of the co-accused were granted bail by the Court below and the appellant is in judicial custody from 08.07.2023 and he has no bad antecedent.



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5. The learned counsel for the defacto complaint/third respondent has raised objections to grant bail to the appellant by reiterating the submission made by the learned Government Advocate (Crl.Side). He would further submit that the bail granted to the co-accused by the trial Court is not a ground to grant bail to the accused. The learned counsel for the defacto complainant further submitted that after granting bail to the number of accused, subsequent occurrence has also happened. In the subsequent occurrence, there is a allegation that the accused said to have threatened the witnesses. He would further submit that even though normalcy is restored, still there is apprehension of clash between two communities. Even though, the appellant does not belong to the rival communities, grant of bail to the appellant would result in tampering of witnesses and hence, he seeks for dismissal of this appeal. He would further submit that in the event of bail granted, the appellant may be directed to stay away from the occurrence place.



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6. Considering the period of incarceration and also the facts that as on date prevailing peace in the locality, the co-accused were granted bail by the Court below, there is no bad antecedent against the appellant and the injured also discharged from the hospital, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 25.07.2023 made in Cr.M.P.No.2183 of 2023 on the file of the III Additional District and Sessions Court (PCR Act), Madurai.

7. Accordingly, the Criminal Appeal is allowed and the order dated 25.07.2023 made in Cr.M.P.No.2183 of 2023 on the file of the III Additional District and Sessions Court (PCR Act), 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 III Additional District and Sessions Court (PCR Act), Madurai, and on further conditions that:

(a) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the III Additional District and Sessions Court (PCR Act), Madurai, may obtain a copy of their valid identity card to



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ensure their identity.

(b) the appellant shall stay at Dindigul and report before the Dindigul Town North Police Station, daily at 10.30 am, 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 Magistrate/Trial Court is entitled to take appropriate action against the appellants in accordance with law as if the conditions have been imposed and the appellant released on bail by the learned Magistrate/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.

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NCC :Yes/No

Index :Yes/No

Internet :Yes/No

sbm

Note: Issue order copy on 17.08.2023

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- 1.The III Additional District & Sessions Court (PCR Act),
Madurai.
- 2.The Deputy Superintendent of Police,
Othakadai Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

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