



CRL.A(MD).No. 807 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATE : 21.09.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CRL.A(MD).No.807 of 2023

Suresh @ Sureshkumar @ Sunnambu

: Petitioner/Accused No.2

Vs.

1.The Deputy Superintendent of Police,
Oomatchikulam Sub Division,
Madurai District.

2.The Inspector of Police,
Thiruppalai Police Station,
Madurai District.

In Crime No.76 of 2022

: Respondents 1&2/Complainant

3.Chithiravelu

: 3rd Respondent/Complainant

Prayer : This Criminal Appeal is filed under Section 14-A(2) of the Schedule Caste and the Schedule Tribes (Prevention of Atrocities) Amendment Act, to call for the records pertaining to the order dated 27.07.2023 made in CrI.M.P.No.2167 of 2023 on the file of the learned III 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.76 of 2022 on the file of the respondent police by allowing this Criminal Appeal.



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For Appellant : Mr.S.Arokiya Selva Ramesh
For R1 & R2 : Mr.M.Muthumanikkam
Government Advocate (Criminal Side)
For R3 : Mr.J.Alexander

JUDGMENT

This Criminal Appeal has been filed to set aside the impugned order passed in CrI.M.P.No.2167 of 2023 dated 27.07.2023, on the file of the III Additional District and Sessions Judge (PCR), Madurai, and enlarge the appellant on bail in connection with Crime No.76 of 2022, 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 302, 115 of IPC r/w 3(2)(v) of SC/ST Act.

2.2. According to the prosecution, the defacto complainant's son namely, Muruganantham was died in the mysterious circumstance on 19.04.2022 and the same was informed to the defacto complainant by his relative on 20.04.2022. Thereafter, a complaint was made before the respondent police. The respondent police registered a case in Crime No.76



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of 2022 for the offences under Sections 302, 115 of IPC r/w 3(2)(v) of SC/ST Act. Subsequently, the Investigation Officer arrested the appellant and other two accused. The appellant was arrayed as A2 in this case and he was inside the jail from 22.04.2022 onwards. Hence, he filed a petition in Crl.M.P.No.2167 of 2023 before the III Additional District and Sessions Judge (PCR), Madurai, and the same was dismissed by the impugned order dated 27.07.2023 on the grounds that the offence committed by the appellant was heinous in nature, his earlier bail petition was dismissed and there was no change of circumstances. Challenging the same, the appellant has preferred this Criminal appeal.

3. The learned counsel for the appellant submitted that in the FIR, there was no allegation against the appellant. The occurrence took place on 19.04.2022, in the midnight and the same was informed to the defacto complainant by one of the relative next day of the occurrence. As on date, available evidence is the circumstances evidence only. The circumstances evidence is not sufficient enough to frame the charge against the appellant. He further submitted that the investigation was completed and final report was also filed and the same was taken on file in Spl.S.C.No.118 of 2020. Further, the appellant was inside the jail from 22.04.2022 onwards. Under the said circumstance, he seeks to grant bail to the appellant.



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4. The learned counsel for the third respondent/defacto complainant submitted that the appellant said to have brutally assaulted the deceased. Further, there is life threat to the witnesses and hence, he seeks for dismissal of this appeal.

5. The learned Government Advocate (Crl.Side) on instructions, submitted that the investigation was completed and final report was filed before the III Additional District and Sessions Court (PCR), Madurai, and the same was taken on file in Spl.S.C.No.118 of 2020. He further submitted that one previous case is pending against the appellant in Crime No.78 of 2022 for the offence under Section 392 of IPC. It was registered on the same date of occurrence i.e., 20.04.2023. It reveals that on the same date of occurrence, the appellant committed an another offence. In the said case, he was granted statutory bail. Further, he reiterated the submission of the learned counsel for the third respondent/defacto complainant that there is life threat to the witnesses. Hence, he vehemently opposed to grant bail to the appellant.

6. This Court considered the rival submission made by both the parties and perused the records and the impugned order passed by the learned trial Judge.



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7. Admittedly, in this case, there is no eye witness and entire prosecution case stands in the evidence of the video footage. In the complaint itself, it was stated that somebody caused death to the son of the defacto complainant. In the said circumstances, array the appellant as a accused is to be decided in the trial. Further taking consideration of the appellant is in custody from 22.04.2022 i.e., more than 1 year and the investigation was completed and the available evidence is only the circumstances evidence, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 27.07.2023, made in Crl.M.P.No. 2167 of 2023 on the file of the III Additional District and Sessions Judge (PCR), Madurai.

9. Accordingly, the Criminal Appeal is allowed and the order, dated 27.07.2023 made in Crl.M.P.No.2167 of 2023 on the file of the 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 III Additional District and Sessions Judge (PCR), Madurai, and on further conditions that:



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

(b) the appellant shall **stay at Trichy** and report before the cantonment Police Station, Tiruchirappalli District, **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]**.



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[f] If the accused thereafter absconds, a fresh FIR
can be registered under Section 229-A IPC.

21.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
dss

Note : Issue order copy on 22.09.2023

To

- 1.The III Additional District and Sessions Judge(PCR),
Madurai.
- 2.The Deputy Superintendent of Police,
Oomatchikulam Sub Division,
Madurai District.
- 3.The Inspector of Police,
Thiruppalai Police Station,
Madurai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- 5.The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN,J.

dss

Order made in
CRL.A(MD).No.807 of 2023

21.09.2023