



*Crl. A.(MD)No.920 of 2023*

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 01.11.2023

Pronounced on : 06.12.2023

CORAM

**THE HONOURABLE MR. JUSTICE P.VADAMALAI**

Crl. A.(MD)No.920 of 2023

Sabari @ Mohana Sabarinath

... Appellant

Vs.

1.The State Rep. by  
The Deputy Superintendent of Police,  
Tiruchendur Sub Division,  
Thoothukudi District.

2.The Inspector of Police,  
Authoor Police Station,  
Thoothukudi District.

3.Suresh

.. Respondents

**Prayer :** This Criminal Appeal is filed under Section 14-A(2) of SC/ST Act, to call for the records relating to the impugned order passed in Crl.M.P.No.918 of 2023 dated 19.09.2023 on the file of the Special Court for trial of Cases under SC/ST (POA) Act, Thoothukudi (FAC), Thoothukudi District and set aside the same as



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illegal and arbitrary and enlarge the appellant/Accused No.1 in Crime No.110 of 2022 on the file of the second respondent on bail by allowing the Appeal.

For Appellant : Mr.Mr.V Kathirvelu  
Senior counsel  
for Mr.K.Prabhu  
For R1 and R2 : Mr.B.Nambiselvan  
Additional Public Prosecutor

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### **JUDGMENT**

The Appellant is the first accused in S.C.No.25 of 2022 on the file of the learned II-Additional District and Sessions Judge, Special Court for trial of cases under SC/ST(POA) Act, Thoothukudi. The appellant is said to have committed the offence under Sections 294(b), 302, 506(ii), 109, 120B IPC and Sections 3(1)(r), 3(1)(s), 3(2)(v) of the SC/ST (POA) Amendment Act.

### **2. Case of the Prosecution:**

On 29.05.2021, one Sathyamurthy belongs to Thevar community was said to have murdered by persons belongs to the scheduled caste. To retaliate the same, the complainant's brother Shanmugaraj, A4 and A5 planned to murder the person belongs to the scheduled caste in the second anniversary of the deceased Sathyamurthy. On 29.05.2022 the defacto complainant and his cousin Santanaraaj



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proceeded towards Aathoor from Thlaivanvadi and the deceased Shanmugaraj also followed them in another bike. They stopped the bike for attending the nature's call.

At the time, A1, A2 and A3 came from the opposite direction with deadly weapons assembled unlawfully and attacked the deceased Shanmugaraj and criminally intimidated him using his caste name and Shanmugaraj succumbed to injuries and died. So, the respondent police, on receipt of the complaint from the defacto complainant registered the case in Crime No.110 of 2022 for the offence under Sections 294(b), 302, 506(ii), 109, 120B IPC and Sections 3(1)(r), 3(1)(s), 3(2)(v) of the SC/ST (POA) Amendment Act.

3. All the accused were arrested on 02.06.2022 and subsequently, they were detained by the detaining authority under the Tamil Nadu Act 14 of 1982, branding them as 'Goondas' by the detention order dated 15.06.2023. After the detention period is over, the appellant along with the other accused have filed the bail petition before the learned trial Judge in Cr.M.P.No.588 of 2023 and the same was dismissed by the learned trial Judge vide impugned order dated 26.06.2023. The learned trial Judge assigned the reason that both the communities were frequently made quarrel. There is a specific overtact against the appellant and the murder was taken place with an intention to retaliate the earlier murder. In the earlier action also, both communities murdered the opposite community and hence, every chance of



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retaliation is possible, more particularly, witness to occurrence are under threat.

Hence, the learned trial Judge dismissed the bail petition. He also stated that earlier bail petition was dismissed on 12.12.2022. According to the learned trial Judge, on instructions, he found that there is no change of circumstances.

4. Aggrieved over the same, the appellant along with the other accused have preferred the appeal in Crl.A(MD).No.547 of 2023 and the same was dismissed by this Court on 01.09.2023. The learned counsel for the appellant submitted that eventhough this is a retaliation murder, in view of the incarceration for more than one year, the plea of bail may be considered. Further, the final report was filed and the case was posted for framing of charges. Hence, to contest the case on merits, in the interest of justice, the appellant has to be released on bail.

5. Mrs.D.Saranya, learned counsel appeared on behalf of the second respondent/defacto complainant has raised strong objections to allow this appeal.

6. The learned Additional Public Prosecutor appearing for the respondent police has also filed a detailed counter reiterating the possibility of retaliation. Further, the two community people are always entered into retaliation murder. Hence, if the appellant is released on bail, his life also would be put in danger and the life of the witnesses at the hands of the appellant is in danger. Since



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investigation has been completed and final report has also been filed and the same was taken on file in S.C.No.25 of 2022 and charges were framed, he requested this Court to issue a direction to the trial Court to expedite the trial.

7. The earlier appeal filed by the appellant along with the other accused in Crl.A(MD).Nos.547 of 2023 was dismissed, since there was a specific overtact against the appellants and the accused persons were committed murder in gruesome manner to retaliate earlier murder and the appellants have previous antecedents and they are history sheeted rowdies. Now, this application is filed by the appellant without referring the change of circumstances to consider the case.

8. Since there is no change of circumstance and also considering the gravity of offence and the manner in which the offence was committed by appellant and if he is released on bail, there is a possibility of serious threat to the lives of the witnesses, this Court is of view that this appellant is not entitled for bail.

9. In the result, this Criminal Appeal is **dismissed**.

06.12.2023

Index : Yes/No  
Internet : Yes/No  
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To

- 1.The Special Court for trial of Cases under SC/ST (POA) Act,  
Thoothukudi (FAC), Thoothukudi District
- 2.The Deputy Superintendent of Police,  
Tiruchendur Sub Division,  
Thoothukudi District.
- 3.The Inspector of Police,  
Authoor Police Station,  
Thoothukudi District.
- 4.The Superintendent,  
Central Prison,  
Palayamkottai.
- 5.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**P.VADAMALAI, J**

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