



CrI.A.(MD)No.1005 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 27.11.2023

Pronounced on : 18.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

CrI.A.(MD)No.1005 of 2023

Uamiyamuthu @ Umaiyaamuthuramalingam

... Appellant / Accused No.4

Vs.

State represented by

1.The Deputy Superintendent of Police,

Thoothukudi District.

... 1st Respondent/Investigation Officer

2.The Inspector of Police,

Thermal Nagar Police Station,

Thoothukudi District.

(Crime No.45 of 2017)

... 2nd Respondent/Complainant

3.Selvam

... 3rd Respondent/De-facto Complainant

PRAYER: Criminal Appeal filed under Section 14(A)(2) of SC/ST Act, 1989 as amended by Act 1 of 2016, to call for the records relating to the order in CrI.M.P(MD)No.1099 of 2023 before the Special Court for Trial of



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Cases under SC/ST (PoA) Act, Thoothukudi which was dismissed on 06.11.2023 and set aside the same and grant bail to the appellant by allowing this Criminal Appeal.

For Appellant : Mr.C.Susikumar
For R1 & R2 : Mr.B.Nambi Selvan
Additional Public Prosecutor
For R3 : Mr.Selvam (Party in person)

JUDGMENT

The appellant has filed this Criminal Appeal to set aside the order dated 06.11.2023 made in Crl.M.P.No.1099 of 2023 in S.C.No.10 of 2020 on the file of the Special Court for trial of cases under SC/ST(PoA) Act, Thoothukudi and to set aside the same and grant bail to the appellant by allowing this appeal.

2.The brief facts of the prosecution case:

The appellant is Accused No.4 in the case. He is charged for the offence under Sections 147, 148, 294(b), 323, 324 of IPC and Sections 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST (PoA) Act. The appellant obtained bail



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and during trial, he did not appear for the hearing on 04.11.2020 and hence, NBW was issued against him and on execution of NBW the appellant is in custody from 30.10.2023. The appellant filed the petition in Crl.M.P.No. 1099 of 2023 before Trial Court seeking bail and the same was dismissed on 06.11.2023. Aggrieved by the dismissal of bail petition, the appellant has preferred the present Criminal Appeal before this Court.

3. Heard both sides and perused the records in this Criminal Appeal.

4. The learned counsel for the appellant has submitted that the appellant has regularly appeared before the trial Court except the hearing on 04.11.2020. The appellant along with his family went to Kerala for doing labour work and hence, he could not appear before the Court. He undertakes to appear before the trial Court on all hearings without default.

5. Per contra, the learned Additional Public Prosecutor appearing for the respondents 1 and 2 strongly opposed to grant bail to the appellant stating that the case is pending without any progress because of



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nonappearance of the appellant while the other accused have been appearing without any default, the trial is yet to be commenced. If the appellant is granted bail, the further progress of the trial would be affected.

6. The *de-facto* complainant submitted that the appellant is threatening the *de-facto* complainant, if the *de-facto* complainant deposes he would face dire consequences.

7. On hearing both side rival arguments and on perusal of records, it is clear that there are totally 8 accused in this case and the appellant is arrayed as Accused No.4. Though the appellant already obtained bail, he did not appear for hearing on 4.11.2020 and only on execution of NBW he was produced on 30.10.2023. During the interregnum, the appellant has not taken any efforts to know the status of the case and he has no specific reason what prevented him to appear before the trial Court for the case. The learned Additional Public Prosecutor submits that the case is pending for three years without any progress, whereas the other co-accused are appearing regularly in the case. Though the appellant is in custody from



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30.10.2023 considering the above contentions, this Court is not inclined to grant bail.

8. In the result, this Criminal Appeal is dismissed.

18.12.2023

NCC :Yes/No
Index :Yes/No
Internet :Yes/No
VSD

To

- 1.The District Jail,
Perurani, Thoothukudi.
- 2.The Deputy Superintendent of Police,
Thoothukudi District.
- 3.The Inspector of Police,
Thermal Nagar Police Station,
Thoothukudi 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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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
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18.12.2023