



Crl.A.(MD)No.1032 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 06.12.2023

Pronounced on : 13.12.2023

CORAM

THE HONOURABLE MR. JUSTICE P.VADAMALAI

Crl. A.(MD)No.1032 of 2023

Prakash

... Appellant

Vs.

1.The State Rep. by
The Deputy Superintendent of Police,
Samayanallur Sub Division,
Madurai District.

2. Pandi

.. Respondents

Prayer : This Criminal Appeal is filed under Section 14-(A)(2) of the Schedule Castes and Tribes Prevention of Atrocities Act, 2015 as Amended by Act 1 of 2016, to call for the records pertaining to the order passed in Crl.M.P.No.3173 of 2023 dated 25.10.2023, on the file of the III Additional District and Sessions Court (PCR), Madurai and set aside the same as illegal and enlarge the appellant on bail by allowing this petition.



Crl.A.(MD)No.1032 of 2023

For Appellant
For R1

: Mr.A.Arputharaj
: Mr.B.Nambiselvan
Additional Public Prosecutor

JUDGMENT

This Criminal Appeal has been filed to call for the records pertaining to the order passed in Crl.M.P.No.3173 of 2023 dated 25.10.2023, on the file of the III Additional District and Sessions Court (PCR), Madurai and set aside the same as illegal and enlarge the appellant on bail by allowing this petition.

2. According to the prosecution the appellant and other accused said to have committed the offence punishable under Sections 147, 294(b), 364, 302 of IPC and r/w sections 3(1)(r), 3(2)(v) of SC/ST (POA) Amendment Act, 2015.

3.The case of the prosecution is that on 07.08.2023 at about 6.30 hours, the appellant along with the other accused in a drunken mood attacked the deceased with hands and dashed him against the pillar and murdered him and throw the dead body near the railway track. Hence, the *de-facto* complainant lodged a complaint before the respondent police and the case has been registered in Crime No.166 of 2023 against the appellant for the offences under Sections 147, 294(b), 364, 302 of IPC and r/w sections 3(1)(r), 3(2)(v) of SC/ST (POA) Amendment Act, 2015. Therefore,



Crl.A.(MD)No.1032 of 2023

the appellant has filed a petition for bail in Crl.M.P.No.3173 of 2023, before the learned III Additional District and Sessions Court (PCR), Madurai and the same was dismissed on 25.10.2023. Challenging the same, the appellant has preferred this Criminal Appeal.

4. The learned counsel for the appellant would submit that the appellant did not involve in any occurrence as alleged by the prosecution. He further submitted that Co-accused namely, A1, A4, A5 and A6 were arrested and thereafter, released on bail by the trial Court and A2 and A9 were ordered to be released on bail by this Court. He would further submit that the appellant is willing to produce sufficient sureties for the appearance and the appellant will never abscond and will not tamper the witnesses. The appellant was arrested and remanded on 11.08.2023 and hence, he seeks to grant bail to the appellant.

5. The learned Additional Public Prosecutor appearing for the respondent police submitted that the deceased gave a complaint against the appellant, due to which the appellant along with the other accused kidnapped the deceased in a two wheeler and brutally attacked and murdered him. He further submitted that two previous cases were pending against the appellant, out of which, one case was



Crl.A.(MD)No.1032 of 2023

disposed of. He further submitted that the investigation has been completed and charge sheet has been laid before the special Court and objected to allow this appeal.

6.The second respondent/de-facto complainant appeared in person and stated that if the appellant is released on bail, there would be danger to his life. Hence he objected to release the appellant on bail.

7.Considering the above facts and circumstances and also the fact that the co-accused were arrested and thereafter released on bail by the trial Court and by this Court and also considering the period of incarceration, this Court is inclined to allow the Criminal Appeal by setting aside the order dated 25.10.2023 passed in Crl.M.P.No.3173 of 2023 on the file of the III Additional District and Sessions Court (PCR), Madurai.

8. Accordingly, this Criminal Appeal is allowed and the order dated 25.10.2023 passed in Crl.M.P.No.3173 of 2023 on the file of the III Additional District and Sessions Court (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 Court (PCR), Madurai and on further conditions that:



Crl.A.(MD)No.1032 of 2023

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

(b) the appellant shall appear before the respondent police daily at 10.30 am and 5.30 p.m., until further orders.

(c) the appellant shall not tamper with evidence or witnesses, during investigation or trial.

(d) the appellant shall co-operate with the investigation.

(e) On breach of any of the aforesaid conditions, the learned 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 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.

13.12.2023

Index : Yes/No

Internet : Yes/No

tta



Crl.A.(MD)No.1032 of 2023

WEB COPY

To

- 1.III Additional District and Sessions Court (PCR), Madurai.
- 2.The Deputy Superintendent of Police,
Samayanallur Sub Division,
Madurai District.
- 3.The Superintendant,
Central Prison,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.A.(MD)No.1032 of 2023

P.VADAMALAI, J

tta

Crl. A.(MD)No.1032 of 2023

13.12.2023