



Crl.A.No.113 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2024

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.113 of 2024

Jayaraman

... Appellant

Vs.

1.The State,

Rep. by Deputy Superintendent of Police,
Perambur Division,
Arumbavur Police Station.
(Crime No.214/2015).

2.Jayanthi

... Respondent

[R2 is impleaded as per order, dated
01.02.2024 in Crl.A.No.113 of 2024]

PRAYER: Criminal Appeal filed under Section 14A(2) of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989, to set aside the order passed in Crl.M.P.No.933/2023 in Spl.S.C.No.27 of 2021, on the file of Sessions Judge, Special Court for SC/ST (POA) cases and to enlarge the appellant on bail pending trial in Spl.S.C.No.27 of 2021, on the file of Sessions Judge, Special Court for SC/ST (POA) cases at Perambalur.

For Appellant	:	Mr.K.Ramesh
For R1	:	Mr.C.E.Pratap, Government Advocate (Crl. Side)
For R2	:	Mr.J.Manikandan, Legal Aid Counsel



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ORDER

This Criminal Appeal has been filed to set aside the impugned order in Crl.M.P.No.933 of 2023, dated 05.01.2024 passed by the learned Sessions Judge, Special Court for Trial of Cases under SC & ST (POA) Act, Perambalur (Trial Court) and enlarge the appellant on bail in connection with Crime No.214 of 2015 on the file of the 1st respondent Police.

2.The appellant/A1 is an accused in Special S.C.No.27 of 2021 for offence under Sections 147, 294(b), 323, 506(i) of IPC r/w Sections 3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015. The appellant filed a bail application before the learned Sessions Judge, Special Court for Trial of Cases under SC & ST (POA) Act, Perambalur in Crl.M.P.No.933 of 2023 and the same was dismissed *vide* impugned order, dated 05.01.2024. Aggrieved over the same, the present Criminal Appeal is filed.

3.This Court *vide* order, dated 01.02.2024 directed the learned



counsel for the appellant to take private notice to the 2nd respondent/defacto complainant since one of the offence the appellant is facing trial is under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. This Court also directed the learned Government Advocate (Crl. Side) to inform the 2nd respondent about the pendency of the present Criminal Appeal. The learned Government Advocate (Crl. Side) had caused notice to the 2nd respondent through the Inspector of Police, Arumbavur Police Station, Perambalur and the same was received by the 2nd respondent, proof filed. On 08.02.2024, the 2nd respondent appeared before this Court and at her request, this Court appoints Mr.J.Manikandan, learned counsel as Legal Aid Counsel for the 2nd respondent.

4.The learned counsel for the appellant submitted that the appellant is the 1st accused in Special S.C.No.27 of 2021, was detained in the Trichirapalli Airport when he came from Malaysia and arrested by the 1st respondent Police and produced before the concerned Magistrate for remand and he has been under judicial custody from 26.12.2023. He further submitted that the appellant has been falsely implicated in this case, after



registration of the case and during trial, the appellant regularly appeared before the Trial Court till the year 2019. Thereafter, on 07.07.2022, this Court in Crl.O.P.No.1988 of 2019 quashed the proceedings against A6. In the meanwhile, the co-accused in this case A2, A5, A7 to A9 filed Crl.M.P.No.19562 of 2021 in Crl.O.P.No.1988 of 2019 seeking for completion of trial in Special S.C.No.24 of 2019. Thereafter only, the case against the appellant got split up and Special S.C.No.27 of 2021 assigned. The appellant for the purpose of his avocation and to sustain himself and to support his family, he went to Malaysia on employment. The case was kept pending for years together without any progress. Thereafter, on the look out notice, when the appellant landed in Trichirapalli Airport, he was arrested and detained. He further submitted that he has not objection for retention of his passport till the completion of the trial and the appellant will not be a reason for any delay of trial. In this case, there are only ten witnesses, who can be examined within stipulated time and the entire trial can be completed without any further delay. Hence, prays for bail setting aside the impugned order of the Court below.



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5.The learned Government Advocate (Crl. Side) appearing for the respondent Police filed counter and submitted that during the course of the trial, the appellant/A1 not appeared before the trial Court, hence, the trial Court issued Non-Bailable Warrant against him. Despite taking efforts to secure the appellant, all failed. Based on the Non-Bailable Warrant, a case was registered in Arubavur Police Station, Perambalur in Crime No.372 of 2023 for offence under Section 229 of IPC on 26.12.2023 and investigation conducted. Thereafter, the respondent Police received information that during verification of his travel documents, the appellant was detailed by the immigration authorities in Trichirapalli Airport on his arrival from Malaysia. The respondent Police arrested the appellant and produced him before the learned Judicial Magistrate, Veppanthattu who remanded him to judicial custody. At this stage, the appellant filed a bail application before the learned Sessions Judge, Special Court for SC/ST (POA) Act, Perambalur vide Crl.M.P.No.933 of 2023 and the same was dismissed *vide* impugned order, dated 05.01.2024. Now, the present criminal appeal filed to escape from the clutches of law and also to drag on the proceedings before the trial Court. His further apprehension is that if the appellant is



released on bail, he will flee away and also there is also possibility of the appellant to escape to other districts and it will be difficult to secure him.

Hence, he strongly objects this criminal appeal.

6.The learned counsel appearing for the 2nd respondent submitted that the appellant in this case is the main accused who tied the victim and beaten in an inhuman manner and also abused using caste name. The appellant and other accused belong to dominant community and the 2nd respondent belongs to scheduled caste community. Now, the 2nd respondent and her family are living with fear. The appellant and the other accused were alternatively absenting themselves and thereby, dragged the progress of the case. The alleged attacked took place in the year 2015 and till 2019, there is no progress of the case and the case was kept pending in P.R.C.No.3 of 2016. After committal to the Court of Sessions for trial, again the accused were regularly absenting themselves one after another and NBW issued. In this case, A6 approached this Court and obtained stay in Crl.O.P.No.21314 of 2022 on 22.09.2022. Taking advantage of the same, the appellant escaped from India and now, with great difficulty, he could have secured on



his arrival from Malaysia. If the appellant is granted bail, again he would escape and there is chances of trial getting stalled. Hence, he opposed for granting bail.

7.Considering the submissions and on perusal of the materials, it is seen that the trial in main case in Special S.C.No.24 of 2019 completed and ended in acquittal. In that case, the appellant was A1, due to his abscondness, the case split up and Special S.C.No.27 of 2021 assigned. There are only ten witnesses in this case and all are local witnesses, who can be produced without delay. Now, the appellant gives an undertaking that his passport can be retained by the trial Court till the completion of the trial and he will also comply with other conditions of this Court.

8.In view of the above undertaking and also finding that earlier the case kept pending due to the stay granted by this Court, the mother case ended in acquittal and the appellant lodged in prison from 26.12.2023, this Court is inclined to grant bail to the appellant subject to the following conditions.



(i)The appellant shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Trial of Cases under SC & ST (POA) Act, Perambalur.

(ii)the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Judge may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(iii)the appellant shall appear before the 1st respondent Police on the first week of every Monday at 10.30 a.m., till the completion of the trial except on the days when he is required to appear before the trial Court. In any event, the appellant will not be reason for the delay of the trial.

(iv)The petitioner has no objection for retention of his passport by the trial Court. On affidavit to this effect shall be filed by him before the trial Court after his release.

(v)The appellant shall not give any inconvenience or trouble knowingly or unknowingly to the 2nd respondent, failing which, the bail shall be cancelled without any further reference.



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(vi)the appellant shall not commit any offences of similar nature;

(vii)the appellant shall not abscond either during investigation or trial;

(viii)the appellant shall not tamper with evidence or witness either during investigation or trial;

(xi)on breach of any of the aforesaid conditions, the learned Judicial Magistrate/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]***;

(x)if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

9.In view of the above, the impugned order in Crl.M.P.No.3460 of 2023, dated 24.11.2023 passed by the learned Sessions Judge, Special Court for Trial of Cases under SC & ST (POA) Act, Perambalur is set aside and the Criminal Appeal is, accordingly, allowed. The learned Sessions Judge, Special Court for Trial of Cases under SC & ST (POA) Act, Perambalur to



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complete the trial within a period of three months from the date of receipt of
a copy of this order.

23.02.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

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To

- 1.The Sessions Judge,
Special Court for Trial of Cases under SC & ST (POA) Act,
Perambalur.
- 2.The Deputy Superintendent of Police,
Perambur Division,
Arumbavur Police Station.
- 3.The Sub Jail,
Perambalur.
- 4.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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