



Crl.A.No.87 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.87 of 2024

M.Santhosh @ Santhosh Kumar
S/o.Manikandan

... Appellant/A8

Vs.

1.The Deputy Superintendent of Police,
Ranipet,
Ranipet District.

2.The State Rep by
Inspector of Police,
Banavaram Police Station,
Ranipet District.
(Crime No.137 of 2022).

3.P.Devi

... Respondents

Prayer: Criminal Appeal filed under Section 14A of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989, to call for the records in pursuant to Crl.M.P.No.1374 of 2023 vide order dated 19.12.2023 on the file of the Special Court of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Vellore, Vellore District



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and set aside the same and enlarge the petitioner on bail in Crime No.137 of 2022 pending on the file of the respondent police.

For Appellant : Mr.K.Sathish Kumar
For Respondents-1 & 2 : Mr.S.Raja Kumar
Additional Public Prosecutor
For Respondent-3 : Mr.S.Nedunchezhiyan
Legal Aid Counsel

JUDGMENT

This Criminal Appeal has been filed to set aside the impugned order in Crl.M.P.No.1374 of 2023 dated 19.12.2023 passed by the learned Sessions Judge, Special Court of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, Vellore and enlarge the appellant on bail in connection with Crime No.137 of 2022 on the file of the second respondent Police.

2.The appellant, who is A8 in Crime No.137 of 2022 for offences under Sections 364, 302, 201, 147, 148, 120(b), 109 and 212 of IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention



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of Atrocities) Act, 1989, was arrested by the respondent police on 15.09.2023. The appellant filed a bail application before the learned Sessions Judge, Vellore in Crl.M.P.No.1374 of 2023 and the same was dismissed vide impugned order, dated 19.12.2023. Aggrieved over the same, the present Criminal Appeal is filed.

3.The contention of the learned counsel for appellant is that there is no overt act attributed against the appellant. The appellant is said to have present along with the other accused when the de-facto complainant's son was cut into pieces and done away. Her complaint is that on 09.07.2022 around 8.30 p.m., when the de-facto complainant, her daughter-in-law and her son, namely, Sarath Kumar were in the house, three unknown persons came into the house and warned her son Sarath Kumar to behave properly and left the house. Around 10.30 p.m., they again came to her house and kidnapped her son Sarath Kumar and took him in a two wheeler. Thereafter, the de-facto complainant and her daughter-in-law searched for Sarath Kumar. On the next day, on 10.07.2022, they were informed about the body of Sarath Kumar cut into pieces found near cemetery. Thereafter, complaint lodged on 10.07.2022.



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4.The further contention of the learned counsel for appellant is that earlier on 20.06.2023, one Vandu @ Rajesh, Vinoth, M.G.Ramachandran, Bill @ Suriya and Murugesan attempted to murder the said Sarath Kumar by stabbing him with knife on head, hand, neck and face and de-facto complainant had suspicion on the above said persons. The appellant name does not find place in the F.I.R. Only on the confession of the co-accused, he has been arrayed as an accused. Though, he has been arrayed as accused, no specific overt act attributed against him. Further submitted that in this case, A1 to A6 were arrested and granted bail by the Lower Court. A7 was granted bail by this Court in Crl.O.P.No.20362 of 2022, A9 was granted anticipatory bail in Crl.O.P.No.31291 of 2022. Except this appellant, all the other accused were granted bail. He further submitted that in this case, investigation completed, charge sheet filed and the same is taken on file in S.C.No.35 of 2023.

5.He further submitted that the appellant filed a bail application in Crl.M.P.No.1374 of 2023 on 14.12.2023 seeking statutory bail. The Lower



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Court by its order dated 19.12.2023, dismissed the bail application, in which it is recorded that the appellant/accused was remanded on 15.09.2023, the charge sheet filed by the respondent police through online on 21.11.2023 and the same is pending for rectification of defects, which is a hand written correction. Originally the order reads that “..... *the charge sheet filed by the respondent police through online on 21.11.2023 and the same has been returned on 01.12.2023 by this Court*”.

6.The learned Additional Public Prosecutor filed his counter and submitted that the case of the prosecution is that the de-facto complainant namely, one P.Devi, W/o.Ashok Kumar had preferred the complaint stating that she has 3 children namely, Ajith Kumar, Sarath Kumar [deceased herein] and Saranya. On 09.07.2022 around 08.30 p.m, while the defacto complainant, her daughter-in-law and her son namely, Sarath Kumar were in the house, 3 male persons came into the house and warned her son Sarath Kumar to behave properly and left the house. Again, around 10.30 p.m, the above said persons came back to their house and kidnapped her son Sarath Kumar and took him in a two wheeler in front of her. Thereafter, the defacto



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complainant and her daughter-in-law gave information to Banavaram Police Station by narrating the above said facts and they went to search him. Next day, on 10.07.2022 around 06.00 a.m one Malaimedu Suresh gave Information to the Village President that the defacto complainant's son namely Sarath Kumar was found dead with two legs and left hand cut off and with knife injuries on his face and stomach near Malaimedu Cemetery. Thereafter, based on the said information from the Village President the defacto complainant, her brother and Ajith Kumar along with the village people went to Malaimedu Cemetery and saw that the deceased was found dead with two legs and left hand cut off and with knife injuries on his face and stomach. Before the said incident on 20.06.2022, around 08.00 a.m, Vandu @ Rajesh, Vinoth, M.G.Ramachandran, Billa @ Suriya and Murugesan all of them had attempted to murder the deceased by stabbing him with knife on head, hand, neck and face. The defacto complainant also stated that she has suspicion that M.G.Ramachandran and Billa @ Surya along with others has kidnapped her son (deceased) and murdered him.

6.1.He further submitted that based on the above complaint, a case was registered in Banavaram Police Station in Cr.No.137 of 2022, under



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Sections 364, 302, 201 of IPC on 10.07.2022 at about 08.30 hours by Tr. Parthiban, then Sub Inspector of Police and the same was submitted before Tr.Munisekar, Inspector of Police DCRB/Ranipet then I/C Inspector of Police, Banavaram circle who took up investigation of the case. During the course of Investigation, then Inspector of Police visited the place of occurrence and prepared rough sketch and observation mahazar in the presence of witnesses and also examined the witnesses and recorded their statements. During the course of investigation, on 13.07.2022, then Inspector of Police arrested the accused persons Saravanakumar [A 1], Luviyarasan [A2], Raja [A3], and on 14.07.2022, Dhusendran @ Billa @ Suriya [A5], Saravanan [A7] were arrested and recorded their confession statements in the presence of witnesses and also seized case property under cover of seizure mahazar. Later, they were produced before the Learned Judicial Magistrate, Sholinghur and sent to remand for judicial custody.

6.2.He further submitted that during the course of investigation, on 13.07.2022 and 26.07.2022, the accused persons Ramachandran [A4] and Rajesh [A6] respectively, voluntarily surrendered before the Learned Judicial Magistrate, Arani and they were taken into police custody on



25.07.2022 and 05.08.2022 respectively. During the course of investigation, on 15.09.2023, the Deputy Superintendent of Police, Ranipet Sub division I/C Arakkonam Sub division arrested the accused Santhosh @ Santhosh Kumar [A8] and recorded his confession statement and remanded him into Judicial custody. During the course of investigation, Senthil Kumar [A9] obtained anticipatory bail from this Court and surrendered before the Judicial Magistrate, Sholinghur on 11.01.2023.

6.3.He further submitted that after completion of elaborate and detailed investigation, based on the statements of witnesses, material evidences, then Deputy Superintendent of Police, Ranipet Sub Division I/C Arakkonam Sub division altered the sections into 147, 148, 120 (b), 364, 302, 201 IPC r/w. 3 (2) (v) of SC/ST (POA) Act 2015 and then filed a charge sheet against the accused persons before the Special Court, SC & ST (POA) Act, Vellore District and the same was taken on file vide Spl.S.C. No.35/2023 , dated: 28.12.2023. The next date of hearing is 11.03.2024 for A8/Santhosh @ Santhosh Kumar Remand Extension. It is submitted that at this stage, Santhosh @ Santhosh Kumar/A-8 has already filed a bail petition before the Special Court of Scheduled Caste and Scheduled Tribes (POA)



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Act, Vellore District vide Crl.M.P.No.1374 of 2023 and the same was dismissed on 19.12.2023.

7.The learned Legal Aid Counsel for third respondent/de-facto complainant submitted that before the said incident, on 20.06.2022, around 08.00 a.m, Vandurajesh, Vinoth, M.G. Ramachandran, Billa @ Suriya and Murugesan all of them had attempted to murder the deceased by stabbing him with knife on head, neck, hand and face. Based on the said incident, the de-facto complainant lodged a complaint to the Banavaram Police Station. Then the investigation took place by the Inspector of Banavarm Police Station, the Police also arrested the main accused Saravanakumar(A-1), Luviyarasan(A-2), Raja (A-3) on 13.07.2022 and other persons on subsequent days. By recording their statements produced them before the learned Judicial Magistrate, and produced them before Judicial Custody. It is submitted that after completion of investigation, based on the statements of witnesses, material evidences, the then DSP, Ranipet Sub Divison, I/c Arakonam Sub Division altered the Sections into 147, 148, 120(1), 364, 302, 201 of IPC r/w 3(2)(v) of SC / ST (POA) Act 2015 and then filed the



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Charge Sheet against the accused persons before the Special Court, SC/ST (POA) Act, Vellore district.

8.He further submitted that the appellant was arrested on 15.09.2023, thereafter his statement recorded and he remanded to the Judicial Custody. He has already filed a bail petition before the Special Court of Scheduled Caste and Scheduled Tribes (POA) Act, Vellore vide Crl.M.P.No.1374 of 2023 and the same was dismissed on 19.12 2023. Aggrieved by the above order the appellant has filed this present petition. He further submitted that the de-facto complainant will be put to life threat, if the appellant is released on Bail, even now the de-facto complainant residing in a transitive place so that the others couldn't trace her easily. The high chance is that the appellant will flee away and also there is every possibility of him escaping to other states and it will be difficult in conduct the Trial, and the appellant to be secured from tampering the evidence and witnesses.

9.He further submitted that the de-facto complainant and the wife of the deceased have been threatened by A1 in this case, which fact has been



informed to the police, but police is not taking any action. In this case, though investigation completed, charge sheet filed, for some reason all the accused are not appearing before the Court and copies are yet to be furnished to all the accused. Despite there is a specific dictum in Section 14 of SC/ST Act that the trial to be completed preferably within a period of two months, it was not followed and the victims' safety and security is not considered.

10.Considering the submissions made and on perusal of the materials, it is seen that except the appellant, all the other accused have been granted bail. The appellant was arrested on 15.09.2023, now investigation completed, charge sheet filed and the same is taken on file in S.C.No.35 of 2023. In view of the same, 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 Judicial Magistrate, Sholingar, Ranipet District.



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

(iii)the appellant shall appear before the trial Court on all hearing dates without fail.

(iv)The respondent police is directed to provide proper security to the de-facto complainant's family and ensure safety and confidence to them. If any complaint is received, the same to be acted upon without any delay.

(v)The trial Court is reminded that as per Section 14 of SC/ST Act, the trial to be completed within a period of two months. Hence, the trial Court is directed to complete the trial preferably within a period of three months from the date of receipt of a copy of this order.

(vi)The appellant shall not give any inconvenience or trouble knowingly or unknowingly to the third respondent, failing



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which, the bail shall be cancelled without any further reference.

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

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

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

(x)on breach of any of the aforesaid conditions, the learned Judge/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 Judge/Trial Court himself as laid down by the Hon'ble Supreme Court in ***P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]***;

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

11.In view of the above, the impugned order in Crl.M.P.No.1374 of 2023, dated 19.12.2023 passed by the learned Sessions Judge, Special Court



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of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act,

Vellore is set aside and the Criminal Appeal is, accordingly, allowed.

14.03.2024

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

Internet: Yes/No

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Note: Issue Order Copy on 14.03.2024.



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To

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- 1.The Deputy Superintendent of Police,
Ranipet,
Ranipet District.
- 2.The State Rep by
Inspector of Police,
Banavaram Police Station,
Ranipet District.
- 3.The Judicial Magistrate,
Sholingar, Ranipet District.
- 4.The Sessions Judge,
Special Court of Scheduled Caste and Scheduled Tribes
(Prevention of Atrocities) Act, Vellore.
- 5.The Superintendent,
Central Prison, Vellore.
- 6.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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