



CrI.A.No.164 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.A.No.164 of 2024

E.Venkatachalam
S/o.Elumalai

... Appellant/Accused

Vs.

1.State rep. By its
The Assistant Commissioner of Police,
Salem City, Kannankurichi Police Station,
Salem District.
(Crime No.1681 of 2023)

2.The Inspector of Police,
Kannankurichi Police Station,
Salem City, Salem.

3.Rathidevi

... Respondents

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 by the learned Principal Sessions Judge, Salem District in CrI.M.P.No.226 of 2024 dated 30.01.2024 and enlarge the appellant on bail in Crime No.1681 of 2023 pending on the file of respondent police.



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For Appellant : Mr.T.Ganesan

For Respondents-1 & 2 : Mr.C.E.Pratap
Government Advocate (Crl. Side)

For Respondent-3 : No appearance

JUDGMENT

This Criminal Appeal has been filed to set aside the impugned order in Crl.M.P.No.226 of 2024 dated 30.01.2024 passed by the learned Principal Sessions Judge, Salem and enlarge the appellant on bail in connection with Crime No.1681 of 2023 on the file of the second respondent Police.

2.The appellant, who is an accused in Crime No.1681 of 2023 for offences under Sections 294(b) and 353 of I.P.C. r/w Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 and Section 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, was arrested by the respondent police on 05.01.2024. The appellant filed a bail application before the learned Principal Sessions Judge, Salem in Crl.M.P.No.226 of 2024 and the same



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was dismissed vide impugned order, dated 30.01.2024. Aggrieved over the same, the present Criminal Appeal is filed.

3.Private notice has been taken to the third respondent/de-facto complainant. Affidavit of Service filed. From the Affidavit of Service it is seen that the third respondent received notice. Further the respondent police through jurisdictional police had served notice to the third respondent on 13.02.2024. The copy of the served notice has been produced. Despite the name of the third respondent/de-facto complainant is printed in the cause list, today there is no representation for the third respondent/de-facto complainant either in person or through her counsel. In view of the same, this Court finds that the third respondent has got no serious objection. This Court proceeds to hear the appeal of the appellant, since the appellant is languishing in prison from 05.01.2024.

4.The complaint against the petitioner is that the third respondent/de-facto complainant on 29.11.2023 at about 4.30 p.m. had gone to the house of the petitioner to record meter reading. At that time, the petitioner



abused the de-facto complainant for the recordings made during the previous month's meter reading as 'Door Locked'. The petitioner used abusive words and also called the de-facto complainant by her caste name and threatened her. When the de-facto complainant was recording the threat in her mobile phone, the petitioner snatched the cell phone from her and went into his house and locked the door. Thereafter the de-facto complainant requested return of her mobile, she was made to stand outside for more than one hour and later, the mobile phone was handed over to her. During this period, abuse and threat continued. Hence, she lodged a complaint.

5.The contention of the learned counsel for petitioner is that the petitioner arrested and languishing in prison for more than 47 days. The de-facto complainant is a stranger to the petitioner. The petitioner is not aware about the de-facto complainant's social status. The de-facto complainant being an assessor without visiting the petitioner's house to record meter reading had recorded that door locked for the previous month. By doing so, the petitioner due to electricity charges gets accumulated and thereby his



slab rate also increased. Added to it, the petitioner is forced to pay extra money as additional deposit. This the petitioner questioned, for which, a false complaint has been lodged against him.

6.The learned Government Advocate (Crl. Side) submitted that in this case on the complaint of de-facto complainant, case registered, witnesses examined, materials collected, investigation completed and draft charge sheet made ready, it is now with the Special Public Prosecutor for opinion.

7.Considering the submissions made and on perusal of the materials available on record, it is seen that the appellant is languishing in jail from 05.01.2024, investigation completed and draft charge sheet made ready, further detention of petitioner not required, hence, 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 Special Judge, Special Court for trial of cases under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Salem.



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(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 second respondent Police on alternate Monday at 10.30 a.m. till the filing of charge sheet and thereafter to appear before the Trial Court on every hearing dates.

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

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

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

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

(viii)on breach of any of the aforesaid conditions, the



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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]*;

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

8.In view of the above, the impugned order in Crl.M.P.No.226 of 2024, dated 30.01.2024 passed by the learned Principal Sessions Judge, Salem is set aside and the Criminal Appeal is, accordingly, allowed.

22.02.2024

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M.NIRMAL KUMAR, J.

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To

- 1.The Principal Sessions Judge,
Salem.
- 2.The Special Judge,
Special Court for trial of cases under Scheduled Castes
and Scheduled Tribes (Prevention of Atrocities) Act, 1989,
Salem.
- 3.The Assistant Commissioner of Police,
Salem City, Kannankurichi Police Station,
Salem District.
- 4.The Inspector of Police,
Kannankurichi Police Station,
Salem City, Salem.
- 5.The Superintendent,
Central Prison, Salem.
- 6.The Public Prosecutor,
High Court, Madras.

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