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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2024

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.A.No.724 of 2024

1. Siva Shanmugam
2.M.Rajendran
3.Manimaran

... Appellants

-Vs-

1. The Deputy Superintendent of Police,
Superintendent Office,
Mayiladuthurai District.

2.The State rep.by
The Inspector of Police,
Vaitheeshwarankovil Police Station,
Mayiladuthurai District.
Crime No.126 of 2024.

3.Viswanathan

... Respondents

PRAYER: Criminal Appeal is filed under Section 14 (A) of SC/ST Act, 1989, to set aside the order dated 15.05.2024 in Cr.M.P.No.1162 of 2024 on the file of the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Nagapattinam and consequently, enlarge on bail in Crime No.126 of 2024 on the file of the second respondent Police.



For Appellants : Mr.N.Chinnaraj
For Respondents : Mrs.G.V.Kasthuri
Additional Public Prosecutor
for R1 and R2
Mr.S.Essakimuthu for R3

J U D G M E N T

This appeal has been filed against the order dated 15.05.2024 passed by the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Nagapattinam, in CrI.MP.No.1162 of 2024 and enlarge the appellants on bail in Cr.No.126 of 2024 on the file of the second respondent police.

2.The case of the prosecution is that on 20.04.2024, when the defacto complainant's mother was washing the cloths near mini tank, Vaitheeswarankovil, the accused persons came there and abused the defacto complainant's mother in filthy language by using caste name and tarred the photo of Ambedkar on 14.04.2024 and gave life threat to the defacto complainant's mother and the accused persons also assaulted the people, who were standing near Panchayat office. Therefore, the defacto complainant/third respondent made a complaint, based on which, the second respondent police has registered a case in Crime No.126 of 2024



for the offence under Sections 147, 148, 294(b), 324 and 506(2) IPC and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST (Prevention of Atrocities) Act, 1989 as against the appellants and the other accused. The appellant Nos.1 and 3 were arrested and remanded to judicial custody on 21.04.2024 and the appellant No.2 was arrested and remanded to judicial custody on 22.04.2024 .

3. The learned counsel for the appellants submitted that it is a case and counter case and the appellants have nothing to do with the alleged offence. The learned counsel further submitted that they have already suffered incarceration for more than 50 days.

4. The learned Additional Public Prosecutor submitted that except this case, no previous case is pending against the petitioners.

5. The learned counsel appearing for the third respondent submitted that the appellants threatened the defacto complainant's mother by using the caste name and if the appellants are enlarged on bail, they will drag on the investigation and hence, the defacto complainant opposes for bail.



6. Taking into consideration, the facts and circumstances of the case and also of the fact that the appellants have already suffered incarceration for more than 50 days, this Court is inclined to interfere with the order of the Court below by setting aside the same and grant bail to the appellants subject to the following conditions.

7. Accordingly, the appellants/A2 to A4 are ordered to be released on bail on their executing separate 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, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Nagapattinam, and on further conditions that:-

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the appellants shall report before the respondent police as and when required for interrogation.

[c] the appellants shall not tamper with evidence or witness either during investigation or trial.

[d] the appellants shall not abscond either during investigation or



trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the appellants in accordance with law as if the conditions have been imposed and the appellants 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 229A IPC.

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

18.06.2024

ssb

Note; Issue order copy on 18.06.2024

To

1. The Superintendent,

District Prison, Nagapattinam.

2. The learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Nagapattinam.

3. The Deputy Superintendent of Police,

Superintendent Office,

Mayiladuthurai District.

4. The Inspector of Police,



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Vaitheeshwarankovil Police Station,
Mayiladuthurai District.

5. The Public Prosecutor,
High Court Madras,
Madras.



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M.DHANDAPANI., J.

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