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Crl.A.No.1205 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.1205 of 2024

1.Veerathamilan
2.Nirmal
3.Santhosh
4.Kalaimani

... Appellants

Vs.

The State rep. by

1.The Deputy Superintendent of Police,
Kilvelur Police Station,
Nagapattinam District.

2.The Inspector of Police,
Kilvelur Police Station,
Nagapattinam.
[Crime No.386 of 2024]

3.Bharani Kumar

... Respondents

Prayer: Criminal Appeal filed under Section 14A(2) of the Scheduled Castes and Schedules Tribes , 1989 to set aside the order passed by the learned District and Sessions Judge at Nagapattinam in Crl.M.P.No.2235 of 2024 dated 09.09.2024 and enlarge the appellants on bail in Crime NO.386 of 2024 on the file of the first respondent.



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For Appellants : Mr.J.Jawahar
For R1 & R2 : Mr.R.Vinoth Raja
Government Advocate (Crl. Side)
For R3 : Mr.P.Muthamizh Selvakumar

JUDGMENT

This Criminal Appeal has been filed to set aside the impugned order in Crl.M.P.No.2235 of 2024, dated 09.09.2024 passed by the learned District and Sessions Judge at Nagapattinam and enlarge the appellants on bail in connection with Crime No.386 of 2024 on the file of the first respondent.

2.The case against the appellants is that on 25.08.2024, the respondent police received information from the Government Hospital, Nagapattinam, thereafter they went to the hospital and enquired Bharanikumar/defacto complainant, who informed that on 24.08.2024 at about 7.00 p.m, when he went to Bazaar Street along with his friend Manikandan to eat Chicken Pakoda, at that time, one Sairam and Nirmal came there in a bike and got offended on seeing the defacto complainant and



his friend in the Bazaar road and warned them that since they are hailing from the Colony, they cannot roam around in the Bazaar street. Thereafter at about 9.00 p.m., when the defacto complainant was standing along with Veera Jaiseelan, Madanagopal and his sons Santhosh and Veerathamilan, Manikandan, Vikram and Kalaimani, all armed with knife and aruval, came there by calling the defacto complainant by his caste name questioning how he can roam in the main Bazaar Street and assaulted him using Knife and aruval. After assaulting him, they fled from the place. The defacto complainant sustained injury on his head, face, hands and later with the aid of 108 Ambulance, he got admitted in the hospital. On receipt of information from the hospital, the respondent police registered a case.

3.The contention of the learned counsel for the appellants is that earlier to this occurrence, the first appellant's father Madanagopal lodged a complaint with the respondent police and a case in Crime No.385 of 2024 registered for the offence under Sections 191(2), 191(3), 296(b), 329(4), 118(2), 351(3), 109 of BNS Act, 2023 and Section 3(1) of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992. The complaint is that on 25.08.2024, the Special Sub-Inspector of Police received



information from the Government Hospital, Nagapattinam that Madanagopal of Kakalani, Kilvelur was assaulted. He informed that four days prior to this assault, his younger son was travelling in his car near Kakalani, Orathur Division, at that time, Senthilkumar, Bharanikumar, Diwakar, Krishnamoorthy, Ranjithkumar, Manikandan and others stopped him and questioned him as to why he is driving the car in a rash and negligent manner and also abused him. Though his son informed that he is not driving the car with rashness, they failed to hear the same and abused him. Thereafter, Madanagopal informed the Village Heads about the incident. This being so, on 24.08.2024 at about 8.30 p.m., Madanagopal, his son and his friend Sairam were again waylaid and the house was damaged. Thereafter, aggressors came to the house of Madanagopal and called his son. Madanagopal came out to pacify the aggressors, at that time, the house and the car was damaged, Madanagopal and three others assaulted using wooden log and aruval. Madanagopal and three others who sustained injuries taken to the hospital, treated and lodged a complaint and case registered.



4.The learned counsel for the appellants submitted that Madanagopal/A2 was severely attacked with knife and aruval, sustained injuries on his forehead and the wounds were sutured. After giving initial treatment at Government Hospital, Nagapattinam, he took further treatment at Meenakshi Hospital, Thanjavur. Apart from Madanagopal, one Santhosh, Sairam and Kalaimani sustained injuries and they took treatment in the Government Hospital, Nagapattinam. He would submit that the defacto complainant and seven others are accused in Crime No.385 of 2024 all arrested by the respondent police on 25.08.2024 and today [14.10.2024] they were granted bail by this Court in Crl.O.P.No.24533 of 2024 and Crl.O.P.No.24515 of 2024. He further submitted that as regards the other accused in this case, bail application of A3 and A6 is to be heard tomorrow [15.10.2024] before the Special Court, Nagapattinam, A2 and A7 filed a direction petition. The entire family of Madanagopal now made to run from pillar to post seeking justice. Hence, prayed for bail.

5.The learned Government Advocate (Crl. Side) submitted that on the complaint of the defacto complainant, a case in Crime No.386 of 2024 registered. The defacto complainant went along with his friend in the



Bazaar Street to eat chicken pakoda, which was objected by the accused in this case. Thereafter, they followed it up with assault using knife and wooden log. The defacto complainant was injured and got admitted in the Government Hospital and on the complaint of the defacto complainant, case registered. He would submit that in this case, A1, A3, A4, A5, A6 and A8 were arrested, A2 and A7 absconding. He would further submit that A2 in this case lodged a complaint against the defacto complainant and seven others, who are accused in Crime No.385 of 2024, they were arrested and today they were granted bail, finding that the situation still combative, they were directed to appear before the Nagapattinam Town Police Station. Hence, opposed the appeal.

6.The learned counsel for the defacto complainant filed his objection and produced four FIRs showing first appellant a regular offender, involved in sand theft, using his muscle power and money power. As early as on 06.06.2021, a case was registered. The first appellant is also involved in a murder case in Crime No.594 of 2023. As regards the present case, A2/Madanagopal is the main person and his sons are aiding the illegal activities of Madanagopal. A2 with his muscle and money power keeping



control over Kilvelur area and its surroundings. To show his supremacy, he always exhibits muscle power threatening innocent and marginalized people.

The defacto complainant questioning the brutal force of Madanagopal was assaulted badly and got admitted in the hospital. Not stopping with that, a false case registered against the defacto complainant and others, they were arrested and today let out on bail. He would submit that when the bail application of defacto complainant and others came up for hearing, it was represented that the situation was combative and hence, they were directed to report before the Nagapattinam Police Station which is around 30 to 40 kms away. Therefore he strongly opposed this appeal.

7.Considering the submissions made and on perusal of the materials, it is seen that the appellants were arrested on 26.08.2024 and 28.08.2024. A2 in this case was attacked and also three others, all sustained injuries serious in nature. The defacto complainant and others who are accused in Crime No.385 of 2024 were arrested and granted bail by this Court. As regards these appellants, it is nothing but an off shoot of the earlier complaint. There has been complaint and counter complaint against both groups. Both have attacked each other. The damage and injury is more on



the appellants' side. Now substantial portion of investigation completed.

Further, considering the period of incarceration this Court is inclined to grant bail to the appellants subject to the following conditions.

(i)The appellants shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with two sureties each for a like sum to the satisfaction of the learned District and Sessions Judge, Nagapattinam.

(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 appellants shall appear before the Tiruvarur Town Police Station everyday at 10.30 a.m. for a period of four weeks and thereafter as and when required by the respondent police.

(iv)The appellants shall not give any inconvenience or trouble knowingly or unknowingly to the 3rd respondent, failing which, the bail shall be cancelled without any further reference.

(v)The appellants shall not commit any offences of similar nature;

(vi)The appellants shall not abscond either during investigation or trial;



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(vii)The appellants shall not tamper with evidence or witness either during investigation or trial;

(viii)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]***;

(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.2235 of 2024, dated 09.09.2024 passed by the learned District and Sessions Judge, Nagapattinam is set aside and the Criminal Appeal is, accordingly, allowed.

14.10.2024

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



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To

- 1.The Deputy Superintendent of Police,
Kilvelur Police Station,
Nagapattinam District.
- 2.The Inspector of Police,
Kilvelur Police Station,
Nagapattinam.
- 3.The District and Sessions Judge,
Nagapattinam.
- 4.The Superintendent,
Central Prison,
Trichy.
- 5.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

cse

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