



Crl.A.No.1405 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.A.No.1405 of 2024

Ajith Kumar

...

Appellant /Accused

Vs.

1.State Rep. By its
The Station House Officer,
Ariyankuppam Police Station,
Puducherry District.

2. Maaveran

...

Respondents

Prayer: Criminal Appeal filed under Section 14-A(2) of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989, praying to call for the records and to set aside the order dated 29.10.2024 in Crl.MP No.4188 of 2024 passed by the Principal Sessions Judge at Puducherry and enlarge the appellant on bail.

For Appellant : Mr.D.Padmanabhan

For 1st Respondent : Mr.K.S.Mohandass
Govt. Advocate (Crl.side)

For 2nd Respondent : Mr.Raghuraj, legal-aid counsel



J U D G M E N T

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This Criminal Appeal has been filed challenging the dismissal of the bail application filed under Section 483(1)(a) of Bharatiya Nagarik Suraksha Sanhita, 2023 for the offences punishable under Section 103 BNS and 3(2)(v) of SC/ST (Prevention of Atrocities) Act, 1989 made in Crl.MP No.4188 of 2024 dated 29.10.2024 by the learned Principal Sessions Judge, II Additional District Judge (FAC), Puducherry and enlarge the appellant on bail in Crime No.166 of 2024 on the file of the 1st respondent police.

2. It is the case of prosecution that there was a wordy quarrel between the defacto complainant and the appellant during a festival and pursuant to the said quarrel, there was a scuffle which resulted in injuries to both the deceased and that the appellant; and that the appellant is said to have attacked the deceased with sugarcane stick which resulted in the death of the deceased. The appellant moved bail petition which was dismissed by the trial court on 29.10.2024.

3. The learned counsel for appellant would submit that the first respondent had filed charge sheet and the case is now pending trial in



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S.C.No.14 of 2024; and that the appellant is in custody from 17.08.2024 and prayed for bail as his custody is no longer required for the purpose of investigation and that he would abide by any stringent conditions that may be imposed by this Court.

4. The learned Government Advocate (crl.side) per contra, opposed for grant of bail stating that the appellant has committed a heinous offence and considering the said fact, the appeal may be dismissed.

5. Notice sent to the second respondent/defacto complainant was served and he was present before this court. Since the second respondent requested to appoint a legal-aid counsel to represent him, this court appointed Mr.Raghu Raj as legal-aid counsel for the 2nd respondent.

6. The learned counsel appearing for the 2nd respondent would submit that the victim belongs to down trodden community and considering the seriousness of the offence, the request of the appellant for bail may be rejected.



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7. Heard the learned counsel for the appellant as well as the second respondent and the learned Government Advocate (crl.side) appearing for the first respondent and perused the records.

8. Admittedly, the appellant was arrested on 17.08.2024. The respondent, after investigation, had filed final report and the case is pending trial in S.C.No.14 of 2024 before the II Additional Sessions Court, Puducherry. The learned Public Prosecutor (Puducherry) was unable to point out as to why the appellants continuous incarceration is required. Hence, this court is of the view that the appellant has to defend himself in the trial court and since the investigation has been completed, he could be released on bail. 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 II Additional District Judge (FAC), Puducherry;



(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 respondent police, once in a week, until further orders.

(iv)the respondent police is directed to ensure that there is no threat to the life and safety of the de-facto complainant. In the event of any threat, appropriate steps to be taken.

(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 learned Sessions Judge/Trial Court is entitled to take appropriate action against the appellant in accordance with law as if the



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conditions have been imposed and the appellant released on bail by the learned Sessions 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.

9. Accordingly, this **Criminal Appeal is allowed** setting aside the impugned order dated 29.10.2024 made in Crl.MP No.4188 of 2024 by the Principal Sessions Judge at Puducherry.

09.12.2024

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

Note : Issue order copy by .12.2024
Upload the order copy forthwith.

Note : The District Legal Services Authority is directed to pay the scheduled fees to Mr.Raghuraj, legal-aid counsel appointed by this Court, to assist this Court on behalf of the defacto complainant/second respondent.



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SUNDER MOHAN, J.

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To

1.The Station House Officer,
Ariyankuppam Police Station,
Puducherry District.

2.The Principal Sessions Judge,
Puducherry.

3.The Superintendent,
Central Prison,
Puducherry.

4.The Public Prosecutor,
High Court, Madras.

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