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CrI.A.No.1420 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 6/12/2024

C O R A M

THE HONOURABLE Mr.JUSTICE SUNDER MOHAN

CrI.A.No.1420 of 2024

Gunasekaran

...

Petitioner

Vs

1. The Deputy Superintendent of Police
Ambur, Ambur Sub-Division
Thirupathur District.

2. State
rep. By The Inspector of Police
Omerabad Police Station
Thirupathur District.

3. Jayaseelan

...

Respondents

PRAYER: Criminal Appeal filed under Section 14 (A) (2) of SC & ST of Prevention of Atrocities Act r/w. 374 (2) of the Code of Criminal Procedure against the order passed in CrI.M.P.No.276 of 2024 in Spl.S.C.No.89 of 2020 on the file of Sessions Judge (FAC), Special Court for SC/ST (POA) Act, Vellore, dated 14/3/2024.



CrL.A.No.1420 of 2024

For petitioner ... Mr.D.A.Sugumar
For respondents ... Dr.C.E.Pratap
Government Advocate (Crl. Side)
for R.R.1 and 2

Mr.R.Raghuraj
Legal Aid Counsel
for R.3

ORDER

This Criminal Appeal challenges the dismissal of the petitioner's bail application which was filed pursuant to the execution of Non-Bailable warrant against the petitioner.

2. The petitioner is an accused facing a trial in Spl.S.C.No.89 of 2020 for the offence under Sections 302 of the Indian Penal Code r/w. Section 3 (1) (R) (s), 3 (2) (v) of SC/ST (POA) Amendment Act, 2015.

3. Admittedly, the petitioner was arrested and released on bail during investigation. On filing of the final report, summons was issued and due to his non-appearance, Non-Bailable warrant was issued on 20/1/2021. Thereafter, Non-bailable warrant was executed on 6/3/2023 and the petitioner was remanded to judicial custody. The petitioner filed CrL.M.P.No.276 of 2024 for bail before the Special Court of Scheduled



Caste and Scheduled Tribes (Prevention of Atrocities) Act, Vellore District and the Special Court had dismissed the said bail application on the ground that the petitioner will tamper with the witnesses, if he is released on bail.

4. The learned counsel appearing for the petitioner submitted that the petitioner was not aware of the pendency of the warrant and that he is in custody for a considerable period and prayed for setting aside the impugned order and for bail.

5. The defacto complainant pursuant to the notice sent appeared in person and requested a counsel to be appointed by this Court on his behalf and hence, this Court appointed Mr.Raghuraj, as Legal Aid counsel for the third respondent.

6. The learned counsel appearing for the third respondent submitted that since the petitioner was absent for nearly two years and progress of the trial was delayed on account of his absence, no indulgence should be shown to the petitioner and sought for dismissal of the petition.



7. The learned Government Advocate (Criminal Side) would submit that though the petitioner was released on bail during the investigation since he had violated the conditions, impugned order passed by the learned Special Court need not be interfered with and prayed for dismissal. He would further submit that case has been transferred to the Principal District and Sessions Judge, Tirupathur.

8. It is seen that the allegation against the petitioner is that he had caused the death of the sister of the defacto complainant by throwing stone on her head since she refused to part with money demanded by the petitioner. The petitioner was on bail during investigation. During trial, on execution of non-bailable warrant, he was arrested and remanded on 6/3/2023 and he is in jail ever since then.

9. Considering the nature of allegations levelled against the petitioner, the period of incarceration and that the petitioner has to defend himself effectively during trial, this Court is inclined to set aside the order passed by the trial Court and release the petitioner on bail on following conditions:-



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(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 Principal Sessions Judge, Tirupathur;

(ii) the appellant/accused shall appear before the concerned Trial Court on first and second Mondays at 10.00 a.m., until further orders and shall appear before the trial court on all hearing dates without fail.

(iii) the appellant/accused shall not commit any offences of similar nature;

(iv) the appellant/accused shall not abscond either during investigation or trial;

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

(vi) 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]***;

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



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10. In view of the above, the impugned order, dated 14/3/2024 in Cr.M.P.No.276 of 2024 in Spl.S.C.No.89 of 2020 passed by the learned Sessions Judge (FAC), Special Court for SC/ST (POA) Act, Vellore, is set aside and the Criminal Appeal is allowed.

6/12/2024

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Index: Yes/No

Neutral Citation: Yes/No

To

1. The Principal District and Sessions Judge, Tirupathur.
2. The Deputy Superintendent of Police
Organized Crime Unit – I
Crime Branch, CID
Chennai.
3. The Superintendent, Central Prison, Vellore.
4. The Public Prosecutor,
Madras High Court.

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