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Crl.A.No.1564 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.A.Nos.1564 of 2024

Suresh Kesevan ... Appellant
Vs.

State rep.by

1.The Assistant Commissioner of Police,
Salem Circle, Steel Plant,Salem District.

2.The Inspector of Police,
Steel Plant Police Station,
Salem District. (Crime No.320 of 2024)

3.Sathish Kumar ... Respondents

PRAYER: Criminal Appeal filed under Section 14(A) of the SC/ST Act (Prevention of Atrocities Amendment Act 2015 r/w 415 (2) of BNSS, against the order passed by the Special District Judge, Special Court for Trial of Cases Under SC/ST (POA) Act, Salem on 07.12.2024 in C.M.P.No.438 of 2024 dismissing the bail petition for the alleged offence original Under Sections 191(2), 191(3), 296(b), 115(2), 118(1), 351 (3) of BNS 3(1) of TNPPDL Act and 3(1) (r), 3(1)(s), 3(1) (t) of SC/ST (POA) Act.

For Appellant : Mr.W.Camyles Gandhi

For Respondent : Dr.C.E.Pratap
Nos.1 & 2 Government Advocate (Crl. Side)

For Respondent : Mr.R.Darshan
No.3 Legal Aid Counsel



JUDGMENT

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The criminal appeal is filed challenging the dismissal of the appellant's bail application in Crl.M.P.No.438 of 2024 dated 07.12.2024 filed before the learned Special District Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Salem.

2.The appellant was arrested on 01.11.2024 for the offences under Sections 191(2), 191(3), 296(b), 115(2), 118(1), 351 (3) of BNS 3(1) of TNPPDL Act and 3(1) (r), 3(1)(s), 3(1) (t) of SC/ST (POA) Act.

3.The allegation against the appellant is that during Deepavali Festival, there was a quarrel between the defacto complainant and the appellant with regard to the bursting of crackers and that on the same day, the appellant and other accused formed themselves into an unlawful assembly, and entered into the house of the defacto complainant and caused damaged to the computer and other accessories of the computer and thus, caused total damages of Rs.25,000/-.

4. The appellant filed a bail application that was dismissed by the trial



Court on the ground that the investigation is still pending and that the appellant will try to tamper and hamper the witnesses and evidence.

5.Mr.W.Camyles Gandhi, the learned counsel for the appellant would submit that the appellant is in custody from 01.11.2024 and that further custody of the appellant is not required for the purpose of investigation and submits that the appellant is ready to abide any condition imposed by this Court.

6.Dr.C.E.Pratap, learned Government Advocate (Crl.side) appearing for the respondent Nos.1 & 2 would submit that the investigation is pending.

7.Though the notice was served on the *de-facto* complainant, none had entered appearance. Therefore, this Court appointed Mr.R.Darshan, as legal aid counsel for the *de-facto* complainant/third respondent.

8.Mr.R.Darshan, the legal aid counsel for the third respondent/*de-facto* complainant would strongly oppose to grant bail to the appellant stating that if the appellant is released on bail, he would interfere with the



investigation.

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9. Considering the nature of the allegations and the period of incarceration since remand, this Court is of the view that further detention of the appellant is not required for the purpose of investigation, and hence the appellant is entitled to bail. ***However, since the appellant has damaged the accessories of the computer in the house of the defacto complainant, the appellant is directed to deposit a sum of Rs.3,000/- to the credit in Crime No.320 of 2024.***

11. Accordingly, the appellant is ordered to be released on bail 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 Special District Judge, Special Court for Trial of Cases Under SC/ST (POA) Act, Salem.

(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;



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(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 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]*;



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(ix) If the accused thereafter absconds, a fresh FIR can be registered under Section 269 B.N.S.

12. Accordingly, this **Criminal Appeal is allowed**, setting aside the impugned order passed by the learned Special District Judge, Special Court for Trial of Cases Under SC/ST (POA) Act, Salem, in C.M.P.No.438 of 2024, dated 07.12.2024.

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

20.12.2024

Note : Issue order copy by 21.12.2024
Upload the order copy forthwith.

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

Copy to:

- 1.The Special District Judge,
Special Court for Trial of Cases Under
SC/ST (POA) Act, Salem.
- 2.The Assistant Commissioner of Police,
Salem Circle, Steel Plant,Salem District.



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3.The Inspector of Police,
Steel Plant Police Station,
Salem District. (Crime No.320 of 2024)

4.The Superintendent of Prison,
Central Prison, Salem.

5.The Public Prosecutor,
High Court, Madras.

SUNDER MOHAN, J.

sms



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21.12.2024