



CRL.A(MD).No. 17 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATE : 29.02.2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

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Ponmuthu Ram : Appellant/
Accused No.5

Vs.

1. The Deputy Superintendent of Police,
Thoothukudi Rural Sub Division,
Thoothukudi. : Respondent No. 1/
Investigating Officer
- 2.The Inspector of Police,
Pudukottai Police Station,
Thoothukudi District.
(Crime No.203 of 2023) : Respondent No. 2/
Complainant
- 3.Poomari : 3rd Respondent/
Defacto Complainant

Prayer : This Criminal Appeal is filed under Section 14(A)(2) of the Schedule Castes and Tribes Prevention of Atrocities Act, 2015 (Amended by Act 1 of 2016), to call for the records pertaining to the order passed in Crl.M.P.No.1225 of 2023 on the file of the Special Court for Trial Cases under SC/ST (PoA) Act, Thoothukudi dated 14.12.2023 and set aside the same and enlarge the appellant on bail by allowing the appeal.



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For Appellant : Mr.K.Suyambulingabharathi
For Respondents : Mr.R.Sivakumar
Government Advocate (Crl. Side)
for R1 and R2
Mr.V.Thirumal,
Legal Aid Counsel for R3

JUDGMENT

Challenging the order dated 14.12.2023 made in Crl.M.P.No.1225 of 2023 on the file of the Special Court for Trial Cases under SC/ST (PoA) Act, Thoothukudi, the present Appeal has been filed.

2. The appellant herein is arrayed as Accused No.5 The case of the prosecution is that on 16.08.2023 at about 6.30 p.m., the deceased Mahendra Perumal was murdered by the appellant along with other accused and thereby, a case was registered against them for the offences punishable under Sections 174 Cr.P.C @ 120(b), 294(b), 302 IPC r/w. Sections 3(2)(va) of SC/ST (PoA) Act, 1989. Thereafter, on 16.08.2023, the petitioner voluntarily surrendered before the learned Judicial Magistrate No.III, Tirunelveli, and he was remanded to judicial custody on 29.09.2023. Subsequently, he filed a bail application under Section 439 of Cr.P.C before the Special Court for Trial of Cases under SC/ST (PoA) Act,



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Thoothukudi, and the same was dismissed by the learned Special Court.

Aggrieved over the same, the appellant came before this Court with the present appeal.

3. Learned counsel for the appellant while pressing the bail application submits that the petitioner is a Polytechnic student. The alleged occurrence is said to have taken place on 16.08.2023 and originally, the prosecution registered a case under 'man missing'. However, the same was altered in to Sections 120(b), 294(b), 302 IPC r/w. Sections 3(2)(va) of SC/ST (PoA) Act, 1989 and the petitioner has been falsely implicated in the case. Learned counsel submits that the appellant is not having any specific overtact and his presence in the scene of occurrence is the only allegation levelled against him. Moreover, other than confession, there is no material evidence to bring out a nexus between the crime and the appellant. Learned counsel further submitted that the Court below has failed to consider the order passed by the Advisory Board dated 28.11.2023, wherein, it has been clearly mentioned that there is no ground or material available against the appellant for detaining him under the Act 14. The appellant is in custody for the last one month and if the appellant is released on bail, he is ready to abide any conditions imposed by this Court.



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4. Mr.R.Sivakumar, learned Government Advocate (Crl. Side) appearing for the respondent police submitted that appellant has three previous cases and that there are enough materials available on record against the appellant and hence, opposed for allowing the appeal.

5. Heard the learned counsel for the parties and perused the materials available on record.

6. Considering the facts and circumstances of the case, period of incarceration of the appellant and taking into consideration that the conclusion of trial will take time, without going into the merits of the matter, this Court is inclined to allow the Criminal Appeal, by setting aside the impugned order dated 14.12.2023 made in Crl.M.P.No.1225 of 2023 passed by the learned Special Judge, Special Court for Trial Cases under SC/ST (PoA) Act, Thoothukudi.

8. Accordingly, the Criminal Appeal is allowed and the order dated 14.12.2023 made in Crl.M.P.No.1225 of 2023 on the file of the Special Court for Trial Cases under SC/ST (PoA) Act, Thoothukudi, is set aside.



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The appellant is ordered to be released on bail, subject to the following conditions:

[a] The appellant shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Special Judge for Trial Cases under SC/ST (PoA) Act, Thoothukudi;

[b] The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

[c] The appellant shall appear before the concerned Court daily at 10.30 a.m., until further orders;

[d] The appellant shall not tamper with evidence or witness either during investigation or trial;



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[e] On breach of any of the aforesaid conditions, the learned 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 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]*; and

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A of IPC.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No

PKN

Note:

- 1. Registry is directed to forthwith upload this order in the official website of this Court.**
2. All concerned to act on this order being uploaded in official website of this Court without insisting on certified copies. To be noted, this order when uploaded in official



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website of this Court will be watermarked
and will also have a QR code.

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To

1. The Deputy Superintendent of Police,
Thoothukudi Rural Sub Division,
Thoothukudi.
2. The Inspector of Police,
Pudukottai Police Station,
Thoothukudi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai.



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VIVEK KUMAR SINGH, J.

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