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CRL.A(MD)No.90 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 05.03.2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

CRL.A(MD)No.90 of 2024

Sabari @ Mohana Sabarinath

.. Appellant/A1

Vs.

1.The State through

The Deputy Superintendent of Police,
Tiruchendur Sub Division,
Thoothukudi District.

2.The Inspector of Police,

Authoor Police Station,
Thoothukudi District.

(Crime No.110 of 2022)

.. Respondents 1 & 2/ Complainant

3.Suresh

.. 3rd Respondent/ *De-facto*

Complainant

Prayer : This Criminal Appeal is filed under Section 14(A)(2) of the
Schedule Castes and Tribes Prevention of Atrocities Act, 2015



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(Amended by Act 1 of 2016), to call for the records relating to the impugned order passed in CrI.M.P.No.38 of 2024 dated 12.01.2024 on the file of the Special Court for trial of Cases under SC/ST (POA) Act, Thoothukudi (FAC), Thoothukudi District and set aside the same as illegal and arbitrary and enlarge the appellant/Accused No.1 in Crime No.110 of 2022 on the file of the second respondent on bail by allowing the Criminal Appeal.

For Appellant : Mr.V.Kathirvelu,
Senior Counsel
for Mr.K.Prabhu

For Respondents : Mr.A.Thiruvadi Kumar – for R1 & R2
Additional Public Prosecutor
Mrs.D.Saranya – for R3

JUDGMENT

This Criminal Appeal has been filed to call for the records relating to the order, dated 12.01.2024 passed in Cr.M.P.No.38 of 2024 on the file of the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi and to set aside the same.



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2. The case of the prosecution is that due to previous enmity, on 29.05.2022, at about 17.30 hours, while the defacto complainant and his brother namely, Shanmugaraj were on their way to Aathoor from Thlaivanvadi in their bike and when they stopped their bike for nature call, the appellant along with other accused persons came from the opposite direction with deadly weapons, abused him using his caste name and attacked the deceased Shanmugaraj, due to which, he succumbed to the injuries. On receipt of the complaint from the *de-facto* complainant, the respondent police registered a case in Crime No.110 of 2022 for the offences under Sections 294(b), 302, 506(ii), 109, 120B IPC and Sections 3(1)(r), 3(1)(s), 3(2)(v) of the SC/ST (POA) Amendment Act.

3. Learned counsel for the appellant would submit that the appellant has been falsely implicated in this case and he is innocent and has not committed any offence as alleged by the prosecution. He further submitted that the appellant had moved bail application before the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi, in Cr.M.P.No.38 of 2024 and the same was dismissed on 12.01.2024. Hence, the



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present appeal has been filed. The learned counsel submitted that the appellant undertakes to abide by any conditions imposed by this Court for grant of bail.

4. Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor appearing for the respondents 1 and 2 submitted that the case pertains to communal clash and there is a possibility of retaliation. He further contended that if the appellant is released on bail, there is a life threat for the appellant as well as the witnesses. He also submitted that the earlier appeal of the appellant was dismissed by this Court and his case was taken on file in S.C.No.25 of 2022 and pending for trial and hence, prays for dismissal of the appeal.

5. Heard the learned counsel on either side and perused the materials available on record.

6. Considering the submissions made on either side and also the duration of incarceration of the petitioner i.e., from 02.06.2022, this Court is inclined to allow the Criminal Appeal, by setting aside the order dated 12.01.2024 made in Cr.M.P.No.38 of



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2024 passed by the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi.

7. Accordingly, the Criminal Appeal is allowed and the order dated 12.01.2024 made in Cr.M.P.No.38 of 2024 on the file of the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi, is set aside. 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 Sessions Judge, Special Court for Trial of 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 stay at Chennai and sign before the Inspector of Police, Flower Bazar Police Station, Near to High Court, Chennai, daily at 10.30 a.m., until further orders;



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

[e] The appellant shall cooperate with the investigation;

[f] 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]***; and

[g] 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

RM



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Note:

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

To

- 1.The Sessions Judge,
Special Court for Trial of Cases under SC/ST (POA) Act,
Thoothukudi,
- 2.The Deputy Superintendent of Police,
Tiruchendur Sub Division,
Thoothukudi District.
- 3.The Inspector of Police,
Authoor Police Station,
Thoothukudi District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Superintendent,
Central Prison,
Palayamkottai.



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VIVEK KUMAR SINGH, J.

RM/DP

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