



CRL.A(MD).No. 88 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATE : 12.03.2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

CRL.A(MD).No.88 of 2024

Mohammed Abuthahir

: Appellant

Vs.

1. The Deputy Superintendent of Police,
Thiruppathur, Sivagangai District.

: 1st Respondent/
Investigating Officer

2. The Inspector of Police,
Tiruppattur Town Police Station,
Sivagangai District.
(Crime No.172 of 2023)

: 2nd Respondent/
Complainant

3. Manjula

: 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.122 of 2024 on the file of the Special Court for Trial Cases under SC/ST (PoA) Act, Sivagangai dated 24.01.2024 and set aside the same as illegal and enlarge the appellant on bail by allowing the appeal.



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For Appellant : Mr.M.Rajarajan
For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor
for R1 and R2

JUDGMENT

Challenging the order dated 24.01.2024 made in Crl.M.P.No.122 of 2024 on the file of the Special Court for Trial Cases under SC/ST (PoA) Act, Sivagangai, the present Appeal has been filed.

2. The case of the prosecution is that on 07.09.2023, the appellant along with other persons formed an unlawful assembly with deadly weapons with criminal conspiracy and confined the deceased Vivek with the intention to murder him had assaulted him by stabbing with knife in which he died. Thereafter, a case has been registered in Crime No.172 of 2023 for the offences punishable under Sections 147, 148, 364, 342, 120(b), 302 of IPC and Section 3(2)(v) of the SC/ST (PoA) Act, 1989. Thereafter, the appellant has preferred a bail petition before the Special Court, Sivagangai in Crl.M.P.No.122 of 2024 and the same was dismissed on 24.01.2024. Aggrieved over the same, the appellant came before this Court with the present appeal.



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3. Learned counsel for the appellant would submit that the appellant is an innocent person and has not committed any such offences as alleged by the prosecution. The appellant has no any previous case and he has been falsely implicated in this case. He submitted that on the date of occurrence, there was a verbal quarrel between other accused persons and the deceased at the wine shop without any pre-plan. There is no specific overact against the appellant and also there is no previous motive between the parties. Without any material evidence, the respondent police has deliberately implicated the accused in the present case. He further submitted that in the present case, investigation is over and charge sheet has also been filed by the respondent police. Moreover, the petitioner is in custody for more than 140 days even at the pre-trial stage itself and hence, if the appellant is released on bail, he is ready to abide any conditions imposed by this Court.

4. Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor appearing for the respondent police vehemently contended that the accused would abscond and may tamper with the material witnesses. He further submitted that the kith and kin of the deceased may face a life threat if the appellant/accused is granted bail and hence, he has raised his strong objection to enlarge the appellant/accused on bail.



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

6. Considering the fact that the appellant/accused does not have any bad antecedents and also taking into account the incarceration period of the appellant, this Court is inclined to allow the Criminal Appeal, by setting aside the impugned order dated 24.01.2024 made in CrI.M.P.No. 122 of 2024 passed by the learned Special Judge, Special Court for Trial Cases under SC/ST (PoA) Act, Sivagangai.

7. Accordingly, the Criminal Appeal is allowed and the order dated 24.01.2024 made in CrI.M.P.No.122 of 2024 on the file of the Special Court for Trial Cases under SC/ST (PoA) Act, Sivagangai, 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



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Special Judge for Trial Cases under SC/ST (PoA) Act,
Sivagangai;

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[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. and 5.30 p.m., until further orders;

[d] In case, if the appellant is unable to appear before the Court on the first working day of a month, he shall appear on the next working day;

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

[f] The appellant shall cooperate with the investigation;



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[g] 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

[h] 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 Special Court for Trial Cases under
SC/ST (PoA) Act,
Sivagangai.
2. The Deputy Superintendent of Police,
Thiruppathur, Sivagangai District.
3. The Inspector of Police,
Tiruppattur Town Police Station,
Sivagangai 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.



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VIVEK KUMAR SINGH, J.

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