



CRL.A(MD).No.238 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 25.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.A(MD)No.238 of 2024

Duraisamy

... Appellant/Petitioner/Accused No.2

Vs.

1. State Rep. By

The Deputy Superintendent of Police,
Thoothukudi Town,
Thoothukudi District.

2. The Inspector of Police,

Thoothukudi North Police Station,
Thoothukudi District.

(Crime No.420 of 2022) ... Respondents/Respondents/Complainant

3. Mugesh Kannan
Complainant

... 3rd Respondent/Defacto

PRAYER: Criminal Appeal filed under Section 14(A) (2) of the Schedule Castes and Tribes Prevention of Atrocities Act, 2015 as Amended by Act 1 of 2016, praying to call for the records pertaining to the Impugned Order passed in Crl.M.P.No.1122 of 2023 in S.C.No.35 of 2022 on the file of the Special Court for Trial of Cases Under SC/ST (POA) Act, Thoothukudi dated 20.11.2023 and set aside the same as illegal and enlarge the Appellant on bail by allowing the Criminal Appeal.



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For Appellant : Mr.S.Vishnuvardhan

For Respondents : Mr.M.Muthumanikkam,
Government Advocate(Crl.Side)
for R1 & R2

JUDGMENT

This appeal is filed to set aside the impugned order passed in Crl.M.P.No.1122 of 2023 in S.C.No.35 of 2022 on the file of the Special Court for Trial of Cases Under SC/ST (POA) Act, Thoothukudi, dated 20.11.2023 and enlarge the appellant on bail.

2.The appellant is A2, in Crime No.420 of 2022 on the file of the second respondent Police. He is said to have committed alleged offences under Sections 120(b), 147, 148, 341, 294(b), 302 and 506(ii) of IPC r/w 34 and 114 of IPC and 3(2)(v) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 2015 (as amended by Act 1 of 2016).

3.According to the prosecution, prior to the occurrence that is on 20.08.2022, there was some dispute relating to consuming alcohol. After that on 20.08.2022, when the deceased and the defacto complainant were riding the two wheeler, the appellant and other four accused unlawfully



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assembled with deadly weapons and assaulted them. In the result, he died.

According to the prosecution, among the five persons, A1, and A3 to A5 are juveniles. A5 namely Karthick attacked the deceased with Aruval. Thereafter, A1 attacked the deceased with Aruval on the head. When the deceased was trying to ward off the same, A1 inculpatedly caused cut injuries on the hands also. Thereafter, the other juvenile accused handed over the Aruval to the appellant and the appellant is said to have attacked the deceased on the right neck of the deceased. Thereafter, he died. Hence, the second respondent police registered a case in Crime No.420 of 222, for the offence under Sections 147, 148, 341, 294(b), 302 and 506(ii) of IPC. Thereafter, the case was altered to Sections 120(b), 147, 148, 341, 294(b), 302 and 506(ii) of IPC r/w 34 and 114 of IPC and 3(2)(v) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 2015 (as amended by Act 1 of 2016). The second respondent Police arrested the appellant on 21.08.2022 and continued the investigation. After completing the investigation, the second respondent police filed a charge sheet and the same was taken on file in S.C.No.35 of 2022 by the Special Court for Trial of Cases Under SC/ST (POA) Act, Thoothukudi. Thereafter, the law enforcing authority detained the accused under Goondas Act. Subsequently, the said proceeding was quashed in H.C.P.(MD).No.1779 of



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2022 dated 12.07.2023. Thereafter, the appellant filed the bail petition in Cr.M.P.No.1122 of 2023 before the Special Court for Trial of Cases Under SC/ST (POA) Act, Thoothukudi and the same was dismissed by the impugned order dated 20.11.2023. Challenging the same, the present appeal is filed under Section 14 A (2) of SC/ST (POA) Act, 1989 as amended by Act 1 of 2016.

4.The learned counsel for the appellant submitted that the petitioner is inside the jail from 21.08.2022 i.e., for the past one and a half years. The law enforcing authority also invoked the detention order without sufficient materials. The same was quashed by this Court in H.C.P.(MD).No.1779 of 2022 dated 12.07.2023. Subsequently, he filed two bail petitions before the Court below and the same were dismissed. Thereafter, the co-accused namely, A1 and A5 were released on bail by this Court in Crl.A.(MD).No. 136 and 41 of 2024 dated 21.03.2024. Hence, he seeks bail.

5.The learner Additional Public Prosecutor on instruction, submitted that even though the petition filed by the appellant was allowed by this Court in H.C.P.(MD).No.1779 of 2022 dated 12.07.2023 and the co-accused were released on bail by this Court, there is chance for tampering



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of evidence. He further submitted that there was no previous antecedents.

Hence, he seeks for dismissal of the bail petition.

6.The learned counsel appearing for the defacto complainant also reiterated the submission of the learned Additional Public Prosecutor stating that there is threat to the life of the witnesses. Hence, he seeks for dismissal of the bail petition.

7.This Court considered the rival submission made on either side and perused the records and also impugned order. This Court also perused the FIR.

8.As per the FIR, the motive alleged by the prosecution is before five years prior to the occurrence, there was a dispute between A1 and the deceased. To wreak vengeance, A1 in this case along with the appellant and other accused unlawfully assembled and attacked the deceased. A1 and other accused are said to have caused stab injuries to the deceased. Among the 5 persons, 2 persons are juveniles. A1 and A5 were also released on bail by this Court. Further, he is inside the jail from 21.08.2022 i.e., for past one and a half years. Apart from that, the investigation was completed



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and the case was taken on file in S.C.No.35 of 2022 by the Special Court for Trial of Cases Under SC/ST (POA) Act, Thoothukudi, and also the case was posted for framing of charges.

9.Considering the above circumstances and also considering the incarceration for the past one and a half years and the release of co-accused namely A1 and A5 on bail by this Court and there was no accusation of the law and order problem, even after releasing of A1 in the said case, this Court is inclined to allow the Criminal Appeal.

10.Accordingly, the Criminal Appeal is allowed and the impugned order dated 20.11.2023 made in Cr.M.P.No.1122 of 2023 in S.C.No.35 of 2022 on the file of the Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, Thoothukudi is set aside. The appellant is ordered to be released on bail on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST (PoA) Act, Thoothukudi and on further conditions that:



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(a) the sureties shall affix his photographs and Left Thumb Impression in the surety bond and the Special Court for Trial of Cases Registered under SC/ST (PoA) Act 1989, Thoothukudi, may obtain a copy of their valid identity card to ensure his identity.

(b) The appellant is directed to stay at Madurai and report before the **Inspector of Police, Tallakulam Police Station, Madurai District**, daily at 10.30 am, until further orders except the hearing dates of S.C.No.35 of 202 on the file of the Special Court for Trial of Cases Registered under SC/ST (PoA) Act 1989, Thoothukudi,

(c) the appellant shall not tamper with evidence or witnesses during trial.

(d) the appellant shall co-operate with the proceeding of Trial Court.

(e) On breach of any of the aforesaid conditions, the learned Trial Judge is entitled to take appropriate action against the appellant in accordance with law as if the conditions have been imposed and the appellant was released on bail by the learned Trial Judge himself as laid



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down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala**
[(2005) AIR SCW 5560].

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

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



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To

1. The Superintendent of Prison,
Central Prison, Palayamkottai.
2. The Learned Special Judge for Trial of Cases
Under SC/ST (POA) Act,
Thoothukudi.
3. The Deputy Superintendent of Police,
Thoothukudi Town, Thoothukudi District.
4. The Inspector of Police,
Thoothukudi North Police Station,
Thoothukudi District.
5. The Superintendent,
Central Prison, Palayamkottai,
Tirunelveli.
6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
7. The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

vsg

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