



Crl.A.(MD).No.241 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.A.(MD).No.241 of 2024

Balan @ Rajabalamurugan

... Appellant

Vs.

1.The Deputy Superintendent of Police,
Vedasandur Sub-Division,
Dindigul District.

2.State by
The Inspector of Police,
Eriyodu Police Station,
Dindigul District.
(Crime No.21 of 2024)

... Respondents 1 & 2
/ Complainant

3.Hariprasanth

... 3rd Respondent /
De-facto Complainant

PRAYER : Criminal Appeal filed under Section 14 A (2) of SC/ST (Prevention of Atrocities) Act, 1989 as amended by Act 1 of 2016, to call for the records relating to the order of dismissal of bail application dated 02.03.2024 made in Crl.M.P.No.330 of 2024 on the file of the learned



Crl.A.(MD).No.241 of 2024

Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, Dindigul, and set aside the same and grant bail to the appellant by allowing this Criminal Appeal.

For Appellant : Mr.B.Sudhasathyanath

For Respondents : Mr.R.Sivakumar
Government Advocate (Crl.Side)
For R1 & R2

:Mr.B.Janarthkumar
Legal-Aid-Counsel for R3

JUDGMENT

This Criminal Appeal has been filed to set aside the impugned order passed in Crl.M.P.No.330 of 2024 dated 02.03.2024, on the file of the learned Sessions Judge, Special Court for trial of Cases under SC/ST (PoA) Act, Dindigul, and enlarge the appellant on bail in connection with Crime No.21 of 2024, on the file of the second respondent police.

2.1. According to the prosecution, the appellant is said to have committed the offences under Sections 294(b), 323 of IPC and Section 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST (PoA) Amendment Act 2015.



Crl.A.(MD).No.241 of 2024

WEB COPY

2.2. According to the prosecution, on 19.01.2024 the defacto complainant, was studying in 11th Standard at Eriyodu Government Higher Secondary School. Due to previous enmity, when he was returning from the School, on 19.01.2024 at 04.45 pm., the appellant had assaulted him and also kicked him on his left thigh and leg. Therefore, the defacto complainant gave a complaint before the second respondent and on the basis of the complaint given by the defacto complainant, the second respondent police registered a case in Crime No.21 of 2024 against the appellant, for the offences under Sections 294(b), 323 of IPC, r/w Section 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST (PoA) Act 1989. Then the appellant filed a petition for bail in Cr.M.P.No.330 of 2024, before the learned Sessions Judge, Special Court for Trial of cases under SC/ST (PoA) Act, Dindigul and the same was dismissed on 02.03.2024. Challenging the same, the appellant has preferred this Criminal appeal.

3. The learned counsel for the appellant would submit that the the appellant is not involved in the alleged occurrence stated in the



Crl.A.(MD).No.241 of 2024

WEB COPY

complaint made by the third respondent/defecto complainant. Further, he is a permanent resident and he will not abscond and he will not tamper the prosecution witnesses, if he comes out on bail. The appellant was arrested and remanded to judicial custody on 17.02.2024. Under the said circumstance, he seeks bail to the appellant.

4. The learned Government Advocate (Criminal Side) appearing for the State would submit that if the appellant is released on bail, he will indulge in such offences and there is a chance of threatening the witnesses; and there is also a possibility of absconding without appearing for trial and he seeks for the dismissal of this appeal by confirming the order passed by the Court below.

5. The learned legal-aid-counsel for the defacto complainant reiterated the submission of the learned Government Advocate (Criminal Side) and strongly objected to release the appellant on bail. He not only abused the defacto complainant and also kicked him. He further submitted that there is a life threat to the witnesses and hence, he seeks for dismissal



Crl.A.(MD).No.241 of 2024

of this appeal.

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6. This Court considered the rival submissions made on either side and perused the materials available on record.

7. From the averments made in the FIR, it is found that the previous enmity between the parties snowballed into an altercation. Consequently, the appellant is said to have assaulted the defacto complainant on 19.01.2024 at 04.45 p.m. In this case, the said altercation does not end with any law and order problem. Further, in the FIR it is alleged that the defacto complainant is said to have kicked and assaulted by the appellant. But the appellant disputed the same. Therefore, the said allegation is to be investigated by the investigating agency. Further, due to the dispute, no injury was sustained by the third respondent/defacto complainant. Apart from that, the appellant is in incarceration from 17.02.2024, in District Jail, Dindigul. He has no previous antecedents.



Crl.A.(MD).No.241 of 2024

WEB COPY

8. Considering the above circumstances and the period of incarceration, and the third respondent/defacto complainant has not sustained any injury and the appellant has no previous antecedent and there is no case of communal tension pleaded by the prosecution, this Court is inclined to allow the Criminal Appeal by setting aside the order, dated 02.03.2024 made in Cr.M.P.No.330 of 2024 on the file of the learned Sessions Judge, Special Court for Trial of Cases registered Under SC/ST (PoA) Act 1989, Dindigul.

9. Accordingly, the Criminal Appeal is allowed and the order dated 02.03.2024 made in Cr.M.P.No.330 of 2024 on the file of the learned Sessions Judge, Special Court for Trial of Cases Registered under SC/ST (PoA) Act 1989, Dindigul 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 Special Court for Trial of Cases Registered under SC/ST (PoA) Act 1989, Dindigul, and on further conditions that:



Crl.A.(MD).No.241 of 2024

WEB COPY

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

(b) the appellant shall report before the second respondent police, daily at 10.30 am, until further orders.

(c) the appellant shall not tamper with evidence or witness either during investigation or trial.

(d) the appellant shall co-operate with the investigation.

(e) On breach of any of the aforesaid conditions, the learned Magistrate/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 was released on bail by the learned Magistrate/Trial Judge himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State**



Crl.A.(MD).No.241 of 2024

of Kerala [(2005) AIR SCW 5560].

WEB COPY

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

05.04.2024

NCC :Yes/No

Index :Yes/No

Internet :Yes/No

sbm

Note: Issue order copy on 08.04.2024



Crl.A.(MD).No.241 of 2024

To

WEB COPY

- 1.The Special Court for Trial of Cases
Registered under SC/ST (PoA) Act 1989, Dindigul.
- 2.The Deputy Superintendent of Police,
Vedasandur Sub-Division,
Dindigul District.
- 3.The Inspector of Police,
Eriyodu Police Station,
Dindigul District.
- 4.The Prisoner,
District Jail,
Dindigul.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 6.The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai.



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Crl.A.(MD).No.241 of 2024

K.K.RAMAKRISHNAN, J.

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Crl.A.(MD).No.241 of 2023

05.04.2024