



*Crl.R.C(MD)No.256 of 2024*

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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|---------------|------------|
| Reserved on   | 16.04.2024 |
| Pronounced On | 24.04.2024 |

**CORAM :**

**THE HONOURABLE MR. JUSTICE K.K.RAMAKRISHNAN**

Crl.A.(MD).No.256 of 2024

Arun

..Appellant /  
Accused No.4

Vs.

1.The Deputy Superintendent of Police,  
Papanasam Sub Division,  
Thanjavur District.

2.The State Through  
The Inspector of Police,  
Ayyampettai Police Station,  
Thanjavur District.  
(Crime No.415 of 2023)

3.Jothi

.. Respondents

**PRAYER:** Criminal Appeal filed under Section 14(A)(2) of the Schedule Caste and Tribes Prevention of Atrocities Act, 2015 as Amended by Act 1 of 2016, to call for the records pertaining to the order passed in Cr.M.P.No.424 of 2024, on the file of the II Additional District and Sessions Judge, Thanjavur. I Additional District and Sessions Judge (PCR) Thanjavur, (FAC), dated 14.03.2024 and set aside the same.



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For Appellant :Mr.S.RAmsundarvijayraj  
Fro Respondents :Mr.B.Nambiselvan  
Additional Public Prosecutor  
for R1 and R2  
:Mr.B.Gowrishankar  
Legal-aid-counsel for R3

### **JUDGMENT**

This Criminal Appeal has been filed to set aside the impugned order passed in Cr.M.P.No.424 of 2024, dated 14.03.2024, on the file of the learned II Additional District and Sessions Judge (PCR), Thanjavur (FAC), and enlarge the appellant on bail in connection with Crime No.415 of 2023, on the file of the respondent police.

2.1.According to the prosecution, the appellant is said to have committed the offence under Sections 294(b), 364, 302, 377, 212 of IPC r/w 3(2)(v) of SC/ST (POA) Act.

2.2.According to the prosecution, on 27.11.2023 at 05.30 p.m, the second son of the defacto complainant, namely, Vijay, while picking some sticks to prepare tea, A1 to A3 kidnapped him in their bike and he did not return thereafter. On the following day, it was reported that the son of the defacto complainant was found dead near the Royal Garden, Pasubathikovil



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bend. Thereafter, the defacto complainant visited the spot and shocked to see her son dead with bleeding injuries on his head. Immediately the defacto complainant lodged a complaint with the respondent police. The respondent police initially registered the case in Crime No.415 of 2023, under Sections 364 and 302 of IPC and subsequently, the same was altered to Sections 294(b), 364, 302, 377, 212 IPC r/w 3(2)(v) of SC ST (POA) Act. Thereafter, the appellant has filed a petition for bail in Cr.M.P.No.424 of 2024, before the learned II Additional District and Sessions Judge (PCR), Thanjavur (FAC). The same was dismissed on 14.03.2024. Challenging the same, the appellant has preferred this Criminal Appeal.

3.The learned counsel for the appellant would submit that the appellant is not involved in the alleged occurrence as stated in the complaint. The appellant is said to have given only asylum to the main accused. Further, no other allegation has been made against him. He is not involved in the major offence of abduction and murder under Sections 377 and 302 of IPC. In the said circumstances, only on the basis of the said allegation of giving asylum to the main accused, the above case was registered against him and he has been confined in prison from 30.11.2023. Hence, he seeks bail.



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4.The learned Additional Public Prosecutor, on instructions, submitted that the investigation was completed and the final report was also filed before the Court below. He further stated that except the allegation of giving asylum to the main accused there was no other allegation against this appellant. Further he has no previous antecedent. The occurrence took place in a cruel manner ie, the deceased was abducted and murdered by the main accused, thereby committing the offences under Sections 377 and 302 of IPC. Further, he would submit that if the appellant is released on bail, he will indulge in similar offences again and there is a chance of threatening the witnesses; and also a possibility of absconding without appearing for trial. In view of the above situation, he seeks for 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 Additional Public Prosecutor and strongly objected to release the appellant on bail. Further he also stated that the manner of the incident as rightly pointed by the learned Additional Public Prosecutor is to be taken into consideration while dealing this appeal. He has also stated that nowadays these type of offences are happening regularly. The appellant had prior knowledge about the incident and intentionally has given



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asylum to the main accused to evade from the arrest. Hence, he seeks for dismissal of this appeal.

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

7. As per the allegation of the prosecution, A1 to A3 abducted the deceased, on 27.11.2023 at 05.30 hours and the same was witnessed by the defacto complainant, namely, the mother of the deceased. On the next day he was found dead. Hence, the defacto complainant lodged a complaint before the respondent police. The respondent police registered the case against A1 to A3. During the course of the investigation, it was found that the appellant was said to have given asylum to the main accused. In the said circumstances, except the above allegation of giving the asylum to the main accused, there was no other material allegation against the appellant. Even as per the final report, he only gave shelter to the main accused. Hence, the charge against this appellant is only for the offence under Section 212 of IPC. In view of the said circumstances, this Court is inclined to allow this Criminal Appeal by setting aside the order dated 14.03.2024 made in Cr.M.P.No.424 of 2024, on the file of the learned II Additional District and



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Sessions Judge (PCR), Thanjavur (FAC).

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8. Considering the above circumstances and the period of incarceration that the appellant was arrested on 30.11.2023 and confined at Pudukottai Prison and the appellant having no previous antecedents and no case of communal tension was pleaded by the prosecution, this Court is inclined to allow this Criminal Appeal by setting aside the order, dated 14.03.2024 made in Cr.M.P.No.424 of 2024, on the file of the learned II Additional District and Sessions Judge (PCR), Thanjavur (FAC).

9. Accordingly, this Criminal Appeal is allowed and the order dated 14.03.2024 made in Cr.M.P.No.424 of 2024 on the file of the learned II Additional District and Sessions Judge (PCR), Thanjavur (FAC) 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 II Additional District and Sessions Court (PCR), Thanjavur(FAC) and on further conditions that:

a)the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the II Additional District and Sessions Court (PCR),



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Thanjavur FAC, may obtain a copy of their valid identity card to ensure their identity;

b)the appellant shall stay at Madurai and report before the Thallakulam Police Station, daily at 10.30 a.m., until further orders;

c)the appellant is directed to appear before the II Additional District and Sessions Court (PCR), Thanjavur (FAC) on the date of hearing and except for that purpose, he is strictly instructed not to enter into the place till the disposal of the trial;

d)the appellant shall not tamper with evidence or witness either during investigation or trial;

e)the appellant shall co-operate with the investigation;

f)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 in bail by the learned Magistrate/ Trial Court



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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.

**24.04.2024**

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

*sbn*



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To

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- 1.The II Additional District and Sessions Court,  
Thanjavur (FAC)
- 2.The Deputy Superintendent of Police,  
Papanasam Sub Division,  
Thanjavur District.
- 3.The Inspector of Police,  
Ayyampettai Police Station,  
Thanjavur District.
- 4.The Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.
- 5.The Superintendent of Prison,  
Pudukottai Prison.
6. The Section Officer, Criminal Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**K.K.RAMAKRISHNAN, J.**

*sbn*

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