



CRL.A(MD).No.318 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 17.04.2024

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CRL.A(MD).No.318 of 2024

Shanmugam @ Shanmugapriyan

...Appellant/Accused

Vs.

1.State rep. by its,
Deputy Superintendent of Police,
Sivagangai Sub- Division,
Sivagangai Taluk Police Station,
Sivagangai District.

2.Nathiya

... Respondents 1 & 2/
complainants

3.Pandiselvam

4.Rasu

5.Packiaraj

6.Theerthampal

...Respondents 3 to 6/Victims/
Defacto Complainant

Prayer : This Criminal Appeal is filed under Section 14 A (2) of SC/ST (POA) Act 1989 as amended by Act 2015, to set a side the order passed in the bail application in CrI.M.P.No.782 of 2024 by the Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, Sivagangai District in



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Crime No.43 of 2024 on the file of the first respondent police and enlarge the appellant on bail.

For Appellant : Mr.T.Balakrishnan
For R1 : Mr.Sivakumar
Government Advocate(Crl.Side)

JUDGMENT

This appeal is filed to set aside the order made in Cr.M.P.No.782 of 2024 on the file of the Hon'ble Special Court for Exclusive Trial of Cases under SC/ST (POA) Act 1989, Sivagangai and enlarge the appellant on bail.

2.The appellant is the accused, in Crime No.43 of 2024 on the file of the respondent Police. He is said to have committed alleged offences under Sections 294(b), 324, 506(ii) and 427 of IPC and Section 4 of TNPHW and Section 3(1)(r), 3 (1) (s) and 3(1)(v) of SC/ST (POA), Act, 1989.

3.The case of the prosecution

The injured Pandiselvam belongs to Scheduled Caste Community and he is residing in the Kovanoor Colony and the appellant is residing in the Kovanoor Village. The defacto complainant is wife of the



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said Pandiselvam. Two years prior to the occurrence ie., on 05.02.2024, the injured Pandiselvam diverted the drinking water main tube into his residence and therefore, the appellant questioned the same. Immediately, the injured informed the same to the president of the said Panchayat. The Panchayat president warned the appellant. Taking the said incident in his mind, the appellant and others on 05.02.2024, at 08.30 p.m., assaulted the injured and caused injuries and also damaged house hold articles of the defacto complainant. In the said occurrence, the injured sustained injuries and hence, they were admitted in the hospital and the statement was obtained from the defacto complainant and the respondent Police registered the case for the above stated offences. The respondent Police arrested the appellant on 06.02.2024 and continued the investigation.

3.1.The appellant filed the bail petition in Cr.M.P.No.782 of 2024 before the Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, 1989, Sivagangai and the same was dismissed on 03.04.2024. challenging the same, the present appeal is filed under Section 14 A (2) of SC/ST (POA) Amendment Act, 2015.



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4.The learned counsel for the appellant submitted that the appellant is never involved in the said occurrence. The appellant was falsely implicated and the same is revealed from the stale motive stated in the complaint. He further submitted that the petitioner is inside the jail from 16.02.2024 and also submitted that this Court has granted bail to the co-accused in Crl.A(MD).No.287 of 2024 dated 15.04.2024. Hence he seeks for the bail.

5.The learned Government Advocate (Crl. Side) submitted that the the investigation is almost completed and awaiting the FSL report. He further submitted that the appellant has four previous cases and the co-accused was arrested and thereafter, released on bail by this Court in Crl.A(MD).No.287 of 2024 dated 15.04.2024.

6.This court considered the rival submission made on either side and perused the materials available on record.

7.The occurrence has taken place on 05.02.2024 at about 08.30 p.m. At that time, when the respondents 3 to 7 were sitting in their house, the appellant and other persons entered into their house and picked up a



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quarrel with them. Even as per the complaint, two years prior to the occurrence, there was some dispute between the parties. The said dispute is also relating to the diversion of drinking water. Considering the above circumstances, though the learned Government Advocate (Crl. Side) submitted that the appellant is having previous cases and the same are not similar in nature and are not relating to the contemporaneous period and also the present allegation is only relating to the diversion of the drinking water and considering the incarceration for the past 51 days and no case of communal tension is pleaded by the prosecution, this Court is inclined to allow the Criminal Appeal by setting aside the order dated 03.04.2024 made in Cr.M.P.No.782 of 2024 on the file of the Special Court for Exclusive Trial of Cases under SC/ST (POA) Act 1989, Sivagangai.

8. Accordingly, the Criminal Appeal is allowed and the impugned order dated 03.04.2024 made in Cr.M.P.No.782 of 2024 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST (PoA) Act, Sivagangai 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



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Trial of Cases under SC/ST (POA) Act, Sivagangai and on further conditions that:

(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, Sivagangai, may obtain a copy of their valid identity card to ensure their identity.

(b)The appellant shall report before the **Inspector of Police, Dindigul Taluk Police Station, Dindigul District**, daily at 10.30 am, until further orders.

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



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Judge himself as laid 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.

17.04.2024

NCC : Yes/No

Index : Yes / No

Internet : Yes / No

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Note: Issue Order Copy on 18.04.2024

To

1. The Learned Special Judge for Exclusive Trial of Cases
under SC/ST (POA) Act 1989,
Sivagangai.
2. Deputy Superintendent of Police,
Sivagangai Sub- Division,
Sivagangai Taluk Police Station,
Sivagangai District.
3. The Superintendent,
.....
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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K.K.RAMAKRISHNAN,J.

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