



CRL.A(MD).No.426 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 05.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.A(MD)No.431 of 2024

1.R.Arun

2.M.Praveen

3.T.Karthikeyan

... Appellants/Accused No.3 to 5

Vs.

1. The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Melur Taluk, Madurai District.

2.The Inspector of Police,
Melur Police Station,
Melur Taluk, Madurai District.
(Crime No.168 of 2024)

3.M.Karthiga

... Respondents

(R3 amended as per order of this Court
dated 23.05.2024 in Crl.A.(MD).No.426 of 2024)

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 set aside the order passed by the learned III Additional District and Sessions Judge (FAC), Madurai, in Cr.M.P.No.782 of 2024 dated 30.04.2024 in Crime No.168 of 2024 on the file of the second



CRL.A(MD).No.426 of 2024

respondent Police and enlarge the Appellants on bail by allowing the
Criminal Appeal.

For Appellants : Mr.S.Atham Ali

For Respondents : Mr.M.Muthumanikkam,
Government Advocate(Crl.Side)
for R1 & R2
: Mr.A.Mohamed Riyaz
for R3

JUDGMENT

This appeal is filed to set aside the impugned order passed in Cr.M.P.No.782 of 2024 dated 30.04.2024 on the file of the learned III Additional District and Sessions Judge (FAC), Madurai, and enlarge the appellants on bail.

2.The appellants are the accused Nos.3 to 5, in Crime No.168 of 2024 on the file of the second respondent Police. They are said to have committed alleged offences under Sections 147, 294(b), 342, 302 of IPC r/w Sections 3(1)(r), 3(1)(s) and 3(2)(va) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.



CRL.A(MD).No.426 of 2024

3. According to the prosecution, the Village Administrative Officer made a complaint before the second respondent police that the body of the deceased was floating in the pond. On receipt of the said complaint, on 19.03.2024, the second respondent police conducted the inquest and registered a case in Crime No.168 of 2024 for the offence under Section 174 of Cr.P.C., (Suspicious Death) and thereafter, arrested the accused and obtained the confession statement and the offence was altered to Sections 147, 294(b), 342, 302 of IPC r/w Sections 3(1)(r), 3(1)(s) and 3(2)(va) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. As per the prosecution case, the deceased was a habitual offender and he was regularly committing theft in the hotel, run by accused No.2 by name Patchiamman. On 18.03.2024, at about 10.30 p.m., the appellants and other accused closed the doors of the shop after business and got information that the deceased was committing theft in the shop. Immediately, he tried to call the police officer. Before that he fled away from the scene of the occurrence. Thereafter, on 19.03.2024, the dead body was found in the pond. On the basis of the confession, it is alleged that they murdered the deceased and the accused was arrested. Pending investigation, the appellants filed the bail petition Cr.M.P.No.782 of 2024 before the learned III Additional District and Sessions Judge (FAC),



CRL.A(MD).No.426 of 2024

Madurai, and the same was dismissed by the impugned order dated 30.04.2024. 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 appearing for the appellants submitted that there was no material evidence to link the accused with this crime. This is a case of circumstantial evidence and the appellants are inside the jail for the past 77 days. The deceased was a habitual offender and hence, the appellants are falsely implicated in this case, on the basis of suspicion. Hence, he seeks for bail.

5.The learned counsel appearing for the defacto complainant submitted that even though the accused was a habitual offender, that cannot be a justification to murder the accused. There was enormous evidence to link the accused in this case and hence, he seeks for the dismissal of the bail petition.

6.The learned Additional Public Prosecutor appearing for the State submitted that the investigation is almost completed and the accused has taken law into his hand and murdered the deceased and also third appellant has previous antecedent. Hence, he seeks for dismissal of the petition.



CRL.A(MD).No.426 of 2024

7.The learned counsel appearing for the appellants, on the basis of the submission of the learned Additional Public Prosecutor that the third appellant has previous antecedent, seeks permission of this Court to withdraw this appeal insofar as the third appellant is concerned at this stage and he has also made an endorsement to that effect.

8.Considering the submission and endorsement made by the learned counsel for the appellants, this Criminal Appeal is dismissed as withdrawn as against the third appellant is concerned.

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

10.Admittedly, the deceased was a habitual offender and he was having two previous theft cases. Even as per the confession statement of the accused, the deceased had frequently made theft in the hotel. When he was caught red-handed, before reaching the police officers, he fled away from the custody of the accused.



CRL.A(MD).No.426 of 2024

11.Considering the said circumstances and the period of incarceration and the investigation is almost completed and the case rests on circumstantial evidence and there was no communal tension pleaded by the prosecution and also considering the fact that the deceased is a habitual offender, this Court is inclined to allow this Criminal Appeal insofar as the appellant Nos.1 and 2.

12.Accordingly, the Criminal Appeal is allowed in respect of the appellants 1 and 2 and the impugned order dated 30.04.2024 in Cr.M.P.No. 782 of 2024 on the file of the learned III Additional District and Sessions Judge (FAC), Madurai, is set aside. The appellants 1 and 2 are ordered to be released on bail on their executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties, for a like sum to the satisfaction of the learned III Additional District and Sessions Judge (FAC), Madurai, and on further conditions that:

(a) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned III Additional District and Sessions Judge (FAC), Madurai, may obtain a copy of their valid identity card to ensure their identity.



CRL.A(MD).No.426 of 2024

(b) the appellants 1 and 2 are directed to appear before the second respondent Police, daily at 10.30 am, until further orders.

(c) the appellants 1 and 2 shall not tamper with evidence or witnesses during trial.

(d) the appellants 1 and 2 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 appellants 1 and 2 in accordance with law as if the conditions have been imposed and the appellants 1 and 2 was released on bail by the learned Trial 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.

05.06.2024

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

vsg

Note: Issue order Copy on 06.06.2024.



CRL.A(MD).No.426 of 2024

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To

1. The learned III Additional District
and Sessions Judge (FAC),
Madurai.
2. The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Melur Taluk, Madurai District.
3. The Inspector of Police,
Melur Police Station,
Melur Taluk, Madurai District.
4. The Superintendent,
Central Prison,
Madurai District.
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.426 of 2024

K.K.RAMAKRISHNAN, J.

vsg

CrI.A(MD)No.431 of 2024

05.06.2024