



Crl.A.(MD)No.571 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 23.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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Marisamy

...Petitioner

Vs.

1.The Deputy Superintendent of Police,
Vilathikulam Sub Division,
Thoothukudi District.

2.The Inspector of Police,
Masarpatti Police Station,
Thoothukudi District.
(Crime No.100 of 2023)

3.Pakkilakshmi

.. 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 set aside the order dated 18.06.2024 made in Crl.M.P.No.630 of 2024 on the file of the learned Sessions Judge, Special Court for trial of cases under SC/ST (PoA) Act, Thoothukudi (FAC) in connection with Cr.No.100 of 2023 on the file of the 2nd respondent police and enlarge the appellant on bail.

For Appellant :Mr.K.K.Samy

Fro R1 & R2 :Mr.B.Thanga Aravindh
Government Advocate(Crl.Side)



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JUDGMENT

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This Criminal Appeal has been filed to set aside the impugned order passed in CrI.M.P.No.630 of 2024 on the file of the learned Sessions Judge, Special Court for trial of cases under SC/ST (PoA) Act, Thoothukudi (FAC) in connection with Cr.No.100 of 2023 on the file of the 2nd respondent police and enlarge the appellant on bail.

2.1.As per the prosecution, the appellant is said to have committed the offence under Sections 302 of IPC, and Section 3(2)(v) of SC/ST (POA) Act.

2.2.According to the prosecution, on 17.10.2023 at about 12.20 a.m, when the deceased person was sleeping at his house, in view of enmity, the accused person entered into the house of the deceased and murdered him. Therefore, the defacto complainant gave a complaint to the second respondent and the same was registered in Crime No.100 of 2023 for the offence under Sections 302 of IPC and subsequently, Sections 3(2)(v) of SC/ST (POA) Act was added by way of alternation report. Thereafter, the appellant filed a petition for bail in Cr.M.P.No.630 of 2024 in Spl.S.C.No.17 of 2024, before the learned Sessions Judge, Special Court for trial of cases



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under SC/ST(PoA) Act, Thoothukudi (FAC) and the same was dismissed on 18.06.2024. Challenging the same, the appellant has preferred this Criminal Appeal.

3.The learned counsel for the appellant would submit that there was no eye witnesses to the occurrence, only on the basis of the hearsay evidence, this grave has been made against the petitioner. Hence, he seeks bail and also stated that he is in jail from 17.10.2023.

4.The learned Counsel for the defacto complainant would submit that there was a threat to the life of the witnesses and also intentional murder was committed by the appellant and he seeks for dismissal of the bail.

5.The learned Additional Public Prosecutor, on instructions, submitted that the investigation was completed and the final report was also filed before the Court below. Further, he stated that there is no previous case against the petitioner. 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 facing the trial. In view of the above situation, he seeks for dismissal of this appeal by



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confirming the order passed by the Court below.

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

7.Considering the submission of the learned Counsel for the appellant that only hearsay evidence is alone available and period of incarceration that the appellant was arrested on 17.10.2023 and confined at 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 18.06.2024 made in CrI.M.P.No.630 of 2024, on the file of the learned Sessions Judge, Special Court for trial of cases under SC/ST(PoA) Act, Thoothukudi (FAC).

8.Accordingly, this Criminal Appeal is allowed and the order dated 18.06.2024 made in Cr.M.P.No.630 of 2024 on the file of the learned Sessions Judge, Special Court for trial of cases under SC/ST(PoA) Act, Thoothukudi (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



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Thousand Only) with two sureties, for a like sum to the satisfaction of the learned Sessions Judge, Special Court for trial of cases under SC/ST(PoA) Act, Thoothukudi (FAC) and on further conditions that:

a)the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Sessions Judge, Special Court for trial of cases under SC/ST(PoA) Act, Thoothukudi (FAC), may obtain a copy of their valid identity card to ensure their identity;

b)the appellant shall report before the respondent police daily at 10.30 a.m., until further orders;

c)the appellant is directed to appear before the learned Sessions Judge, Special Court for trial of cases under SC/ST(PoA) Act, Thoothukudi (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 influence the witnesses either during trial;

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



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with law as if the conditions have been imposed and the appellant was released in bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in ***P.K.Shaji vs. State of Kerala [(2005) AIR SCW 5560]***; and

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

23.07.2024

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

RJR

Note: Issue Order copy on 25.07.2024



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To

- 1.The learned Sessions Judge, Special Court for trial
of cases under SC/ST(PoA) Act, Thoothukudi (FAC)
- 2.The Deputy Superintendent of Police,
Vilathikulam Sub Division,
Thoothukudi District.
- 3.The Inspector of Police,
Masarpatti Police Station,
Thoothukudi District.
- 4.The Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The Central Jail,
Palayamkottai.
6. The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

RJR

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