



Crl.A(MD)No.626 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 01.08.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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L.Tamilselvan

...Appellant/Petitioner/Accused No.6

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

...Respondent/Respondent/Complainant

3.M.Karthiga

...Respondent/Respondent/
Defacto complainant

Prayer : This Criminal Appeal is filed under Section 14A(2) of the SC/ST Prevention of Atrocities Amendment Act, 2015, to call for the entire records relating to the order dated 16.07.2024 passed in Crl.M.P.No.1721 of 2024 on the file of the III Additional District and Sessions Judge(PCR), Madurai and set aside the same as arbitrary and consequently to release the petitioner on bail in connection with Crime No.168 of 2024 on the file of the learned Sessions Judge, Madurai.



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For Appellant : Mr.S.Atham Ali

For Respondents : Mr.B.Thanga Aravindh
Government Advocate(Crl.Side)
for R1 & R2

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JUDGMENT

This appeal is filed to set aside the impugned order passed in Cr.M.P.No. 1721 of 2024 dated 16.07.2024 on the file of the learned III Additional District and Sessions Judge (PCR), Madurai, and enlarge the appellant on bail.

2.The appellant is accused No.6, in Crime No.168 of 2024 on the file of the second respondent Police. The accused is 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.

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



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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 appellant and other accused closed the doors of the shop after business and got information that the deceased was committing theft in the shop. Immediately, they 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 appellant filed the bail petition Cr.M.P.No.141 of 2024 before the learned III Additional District and Sessions Judge (PCR), Madurai, and the same was dismissed by the impugned order dated 25.04.2024. 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 appellant submitted that the *defacto* complainant has refused to receive the notice. He has also produced the material to show. He further stated that apart from the contention on merits, this



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Court has granted bail to the co-accused 3 to 5. The appellant is inside the jail for the past 70 days. 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 appellant and other accused had taken law into their hand and murdered the deceased and also one of the accused has previous case. Hence, he seeks for dismissal of the petition.

7.This Court considered the rival submission made on either side and perused the records and also the impugned order.

8.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.



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9.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 and the co-accused also enlarged on bail in Crl.A.(MD).Nos.426 and 431 of 2024, this Court is inclined to allow this Criminal Appeal.

10.Accordingly, the Criminal Appeal is partly allowed and the impugned order dated 16.07.2024 in Cr.M.P.No.1721 of 2024 on the file of the learned III Additional District and Sessions Judge (PCR), Madurai, 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 III Additional District and Sessions Judge (PCR), Madurai, and on further conditions that:

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

(b)the appellant is directed to appear before the second respondent Police, daily at 10.30 am, until further orders;



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

(d) the appellant 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 appellant in accordance with law as if the conditions have been imposed and the appellant 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]; and

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

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

Note: Issue order copy on 02.08.2024



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To

- 1.The learned III Additional District and Sessions Judge (PCR),
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 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.

RJR

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