



Crl.A(MD)No.901 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated	:	29.11.2024
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THE HONOURABLE MR.JUSTICE **K.K.RAMAKRISHNAN**

CRL.A.(MD)No.901 of 2024

Karthick

... Appellant

vs.

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

2.State through the Tamilnadu
The Inspector of Police,
Authoor Police Station,
Thoothukudi District.

3.Suresh

... Respondents

PRAYER: Criminal Appeal filed under Section 14 A (2) of SC/ST Act, 1989 as amended by Act 1 of 2016 to call for the records relating to the order in Cr.M.P.No.809 of 2024 dated 06.08.2024 in S.C.No.25 of 2022, on the file of the Special Court for Trial of Cases under SC/ST (POA) Act 1989, Thoothukudi and set aside the same and grant bail to the appellant.



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For appellants :Mr.K.Suyambulingabharathi

For Respondents :Mr.M.Sakthi Kumar
Government Advocate (Crl.Side)
for R1 and R2

JUDGMENT

This Criminal Appeal has been filed to set aside the impugned order passed in Crl.M.P.No.809 of 2024, dated 06.08.2024, in S.C.No.25 of 2022, on the file of the Special Court for Trial of Cases under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, Thoothukudi, and enlarge the appellant on bail in connection with Crime No.110 of 2022.

2.1. According to the prosecution, the appellant is said to have committed the offences under Sections 294(b), 302, 506(ii) of IPC & Section 3(1)(r), 3(1)(s), 3(2)(v) of SC/ST (POA) Act 1989.



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2.2. According to the prosecution, in the stated village, there was a communal clash between the parties. Due to the said issue, on 29.05.2022, at about 17.30 hours, the *defacto* complainant and his brother namely, Shanmugaraj were on their way to Village Aathoor from Thalaivanvadalai on their bike and when they stopped their bike for nature's call, the appellant along with other accused persons came from the opposite direction with deadly weapons, abused them by using their caste name and attacked the deceased Shanmugaraj, due to which, he succumbed to the injuries. On receipt of the complaint from the de-facto complainant, the second respondent police registered a case in Crime No.110 of 2022, against the appellant and others for the offences punishable under Sections 294(b), 302, 506(ii), 109, 120(B) of and Sections 3(1)(r), 3(1)(s) and 3(2)(v) of the SC/ST (Prevention of Atrocities) Amendment Act. Thereafter, the appellant was arrested on 01.06.2022. The appellant filed a petition for bail in Cr.M.P.No.809 of 2024 and the same was dismissed by the learned Special Judge, Special Court for (POA



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Cases), Thoothukudi, on 06.08.2024. Challenging the same, the appellant has preferred this Criminal Appeal.

3. The learned counsel for the appellant would submit that this is the second bail application before this Court. The appellant has been falsely implicated in this case and he is innocent and has not committed any offence as alleged by the prosecution. He further submitted that the bail application filed by the appellant before the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thoothukudi, in Cr.M.P.No.809 of 2024 , was dismissed on 06.08.2024. He further stated that this Court has granted bail to the co-accused/ Accused No.1 on 05.03.2024. The appellant is inside the jail for the past two year ie., from 01.06.2022. Hence, he seeks for bail.

4. The learned Government Advocate (Criminal Side) appearing for the State would submit that the case pertains to communal clash and there is a possibility of retaliation. He further



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contended that if the appellant is released on bail, there is life threat fro the appellant as well as the witnesses. He also submitted that the earlier appeal filed by the appellant was dismissed by this Court. Hence, he prays for dismissal of the appeal.

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

6. According to the learned Additional Public Prosecutor, this is the second application filed on behalf of the appellant seeking bail in S.C.No.25 of 2022, pending on the file of the Special Court for trial of Cases Under SC/ST (POA) Act, Thoothukudi, and A1 was released on bail by this Court in Crl.A.(MD).No.90 of 2024 and there is no previous antecedent against the appellant. As per the prosecution case, both A2 and A3 have similar overtacts. The appellant is in incarceration for the past two years ie from 01.06.2022. The trial has not commenced. Even though, the



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learned Additional Public Prosecutor apprehends some retaliation murder and communal tension, this Court is unable to accept the same for the reason that A1 was already released on bail by this Court on 05.03.2024 and thereafter, there was no untoward incident. Since, the appellant is in incarceration for a period of two years, this Court is inclined to grant bail to the appellant with stringent conditions, by setting aside the order, dated 06.08.2024 made in Cr.M.P.No.809 of 2024 in S.C.No.25 of 2022 on the file of the learned Sessions Judge, Special Court of Exclusive Trial of Cases under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, Thoothukudi.

8. Accordingly, the Criminal Appeal is allowed and the order dated 06.08.2024 made in Cr.M.P.No.809 of 2024, on the file of the learned Sessions Judge, Special Court of Exclusive Trial of Cases under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act Thoothukudi, is hereby set aside. The appellant is ordered to be released on bail on executing a



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bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Special Court of Exclusive Trial of Cases under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act Thoothukudi, 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 of Exclusive Trial of Cases under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act Thoothukudi, may obtain a copy of their valid identity card to ensure their identity.

b)the appellant shall stay at Erode and report before the Special Court for Trial of Cases under SC/ST (POA) Act, 1989 daily at 10.30 am, until further orders and he is permitted to appear before the Special Court for Trial of Cases under SC/ST (POA) Act 1989, Thoothukudi, on the hearing dates in S.C.No.25 of 2022 pending on its file.



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(c) the appellant shall not tamper with the evidence or influence the witness 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 released on bail by the learned Magistrate/Judge Court 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 269 BNS, 2023.

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Index :Yes / No

Internet :Yes / No

NCC :Yes / No

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Note:Issue order copy on 02.12.2024



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To

- 1.The learned Sessions Judge,
The Special Court for Trial of Cases under SC/ST (POA) Act,
Thoothukudi.
- 2.The learned Sessions Judge,
The Special Court for Trial of Cases under SC/ST (POA) Act,
Erode.
3. The Deputy Superintendent of Police,
DSP-Office, Manamadurai,
Manamadurai-630606.
- 4.The Inspector of Police,
Poovanthi Police Station,
Sivagangai District.
- 5.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 7.The Section Officer,
Record Section (Criminal)
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

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