

'Misbehaviour Caused In A Drunken Mood': Madras High Court Grants Bail To Accused In SC/ST Case

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

G. ILANGOVAN; J.

Crl. A (MD) No. 18 of 2023; 03.02.2023

Sivankalai versus State rep. by the Deputy Superintendent of Police

For Appellant: Mr.S.Sabbani Karbura Jothi

For R-1 & R-2 : Mr.M.Sakthi Kumar Government Advocate (Crl. Side) For R3 : MrR.Rajaraman, Legal Aid Counsel

J U D G M E N T

Heard the learned Counsel appearing for the appellant, learned Government Advocate (Crl. Side) appearing for the respondents 1 & 2 and the learned counsel appearing for the third respondent.

2. This Criminal Appeal has been filed to call for the records and set-aside the order passed by the learned learned Sessions Judge, Special Court for Trial of SC / ST (PoA) Act Cases, Theni District, dated 22.12.2022 made in Cr.M.P.No. 1414 of 2022 and enlarge the appellant on bail.

3. The appellant, who was arrested and remanded to judicial custody on 03.12.2022, for the offences punishable under Sections 510 IPC r/w Section 3(1)(w)(ii), 3(2)(va) of SC/ST (POA) Amendment Act 2015, in Crime No.301 of 2022 on the file of the respondent police, seek appeal bail.

4. The case of the prosecution in brief:

The defacto complainant lodged a complaint stating that on 27.11.2022 after purchasing the vegetables in Gudalur weekly market, she was standing in front of the market at about 08.00 p.m., the accused came to the place in drunken mood and demanded her cell phone. When she objected the same, he insisted and caused trouble and also misbehaved with her. Later he left from that place. On the basis of the above said occurrence, she lodged a complaint. Therefore, the petitioner was arrested and remanded to judicial custody on 03.12.2022. Ever since, he is in custody. Seeking bail, he moved the Special Court and that was dismissed. Against which, this appeal has been preferred.

5. At the time of arguments, the defacto complainant's father was also present before this Court and on behalf of the defacto complainant an Advocate was appointed and he would submit that in a drunken mood, this petitioner misbehaved with victim. They belonged to upper caste and if he is released on bail, there is every likelihood of causing trouble again.

6. The learned Government Advocate (Crl. Side) would submit that the petitioner is a habitual offender. Against whom, several proceedings under Sections 107 and 110 Cr.P.C. have been initiated. Apart from that he is also having two previous cases under IPC offences and he is a frequent trouble maker. The learned Government Advocate has also produced the list of cases. Perusal of the list shows that some of the cases have been disposed of and some of the cases ended in acquittal. This shows that the petitioner is not having and keeping good conduct. But however, considering the period of incarceration and also considering the fact that the above said misbehaviour

was alleged to have been caused by the petitioner in a drunken mood, he was directed to file undertaking affidavit before this Court. He has also produced an undertaking affidavit stating that the above said occurrence was committed by mistake. Considering the above said undertaking affidavit, this Court is inclined to allow this appeal and grant bail to the appellant with certain conditions.

7. Accordingly, the Criminal Appeal is allowed and the order, dated 22.12.2022 made in CrI.M.P.No.1414 of 2022 on the file of the learned Sessions Judge, Special Court for Trial of SC / ST (PoA) Act Cases, Theni District, is set aside. The appellant is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Trial of SC / ST (PoA) Act Cases, Theni District, and on further condition that:

[a] the appellant shall file an undertaking affidavit to the effect that he will not make any trouble to the defacto complainant in future;

[b] the appellant shall appear before the concerned court, daily at 10:30 a.m. until further orders;

[c] the appellant shall not tamper with evidence or witness either during investigation or trial;

[d] the appellant shall not abscond either during investigation or trial;

[e] On breach of any of the aforesaid conditions, the 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 Trial Court itself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

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