

Crl.O.P.No.12795 of 2015**R.SUBBIAH, J.**

The petitioner, who was arrested on 13.02.2011 for the alleged offences punishable under Sections 147, 148, 341 & 302 IPC in respect of the case in S.C.No.32 of 2011 (*Crime No.234/2001 on the file of the respondent-Police*) pending on the file of the Fast Tract Court No.I, Chengalpattu, Kancheepuram District, seeks the relief of bail.

2.The case of the prosecution, in brief, is as follows:- The complaint was lodged by one Nirmal Kumar, who is the brother of the deceased in this case, stating that on 07.05.2001 in between 6.00 am to 7.00 am, near the house of one Manjini at Chaadi Road, Tenpakkam Colony, within the limits of Chunambedu Police Station, the accused persons 1 to 19 formed an unlawful assembly and attacked one Kumar @ Rathinakumar and Vadivu and committed the offence of rioting. At the time of commission of the said offence, the petitioner herein/A1 and co-accused were armed with knives and patakathi. Based on the complaint lodged by the brother of the deceased, the case was registered in Crime No.234 of 2001 under Sections 147, 148, 341, 302 r/w 149 IPC. On completion of the investigation, the charge-sheet has been filed on 25.10.2002 in P.R.C.No.53 of 2002 on

the file of the learned Judicial Magistrate Court, Maduranthakam, and later the case was committed to the Additional District and Sessions Court (Fast Track Court No.1), Chengalpet, Kancheepuram District vide., S.C.No.141 of 2008 on 10.06.2008. During the trial proceedings, the accused persons did not appear for the hearing; hence, the trial Court issued Non Bailable Warrant in the year 2008 to some of the accused who did not appear for hearing, including the petitioner/A1. Thereafter, the trial Court split up the case as S.C.No.141 of 2008 and S.C.No.32 of 2011 and proceed with the trial proceedings. The petitioner/A1 has been lodged at Central Prison, Puzhal, Chennai in connection with V-2 Royapettah Police Station Crime No.217/1988 under Section 302 read with 34 IPC. The respondent-Police made formal arrest of the petitioner/A1 by way of P.T.Warrant on 04.12.2014. Now, the present petition has been filed by the petitioner seeking bail.

3.The learned counsel for the petitioner submitted that the petitioner is in inside the prison for more than five years and that the trial in the case in S.C.No.32 of 2011 has not commenced so far. The learned counsel for the petitioner would further submit that since some of the accused are still absconding, the trial of the case would not commence in the near future. Thus, the learned counsel for the

petitioner sought for grant of bail to the petitioners.

4.The learned Government Advocate (Crl.Side) opposed the grant of bail to the petitioners stating that the petitioner is a life convict in connection with another case.

5.Keeping the submissions made on either side, I have carefully gone through the materials available on record. In fact, this Court called for the report from the Court below and accordingly, a report has been sent by the Court below. In the report, it has been stated that NBW against the petitioner herein/A1 was pending from 24.11.2008; hence, the case was split-up as S.C.No.32 of 2011 and on 19.01.2015, the petitioner/A1 was produced on P.T.Warrant and sent back to jail; that as on date NBW is pending as against the accused 2, 5, 6, 7 & 9; due to the absence of the accused persons, charges have not been framed so far.

6.Considering the facts and circumstances of the case, I am of the opinion that since trial has not commence so far, bail could be granted to the petitioner/A1 in this case. Accordingly, the petitioner is granted bail in this case on the conditions that he shall execute 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 Judicial Magistrate No.I, Chengalpet, Kancheepuram District, and on further condition that the petitioner shall appear before the trial Court on all hearing dates without fail.

23 .07.2015

SSV

R.SUBBIAH, J.

Pre-delivery order

in

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