

In the High Court of Judicature at Madras

Dated : 18.09.2015

Coram :

The Honourable Mr.Justice S.VAIDYANATHAN

Crl.OP.No.26698 of 2014

State rep. by
The Deputy Superintendent of Police,
Valappady Sub Division,
Salem District.

...Petitioner/Complainant

Vs

1.Boopathy
2.Snake Babu @ Anand Babu
3.Anand
4.Prabakaran
5.Balakrishnan

...Respondent/Accused 1 to 5

PETITION filed under section 439[2] of Cr.P.C., praying to cancel the bail granted to the respondents/accused A1 to A5 by the Mahila Court, Salem in C.M.P.No.258, 259, 261 & 262 of 2014, dated 26.05.2014.

For Petitioner : Mr.C.Ayyapparaj, GA [Crl.Side]

For Respondent : Mr.PG.Perumal Pandian
Legal Aid counsel

ORDER

The above petition has been filed by the State represented by the Deputy Superintendent of Police, Valappady Sub Division, Salem District, to cancel the bail granted to the respondents 1 to 5 vide CMP Nos.258, 259, 261 and 262/2014 by the learned Judge, Mahila Court, Salem on 26.05.2014.

2.The case of the prosecution in gist, is thus:-

On 15.02.2014 at about 4.00 a.m., the accused persons [A1 to A5]/the respondents herein, said to have kidnapped the daughter of the defacto complainant/ the victim herein, by name Poongodi aged 10 years and at about 9.30 a.m., the girl was found hanging in the neem tree in a nude position. Initially, a case has been registered u/s.302 IPC and subsequent to the receipt of the Postmortem report, the case came to be altered into one of 302 IPC and section 4 of POSCO Act, 2012, which was again altered to one u/s.302 IPC r/w section 6 of POSCO Act, on completion of investigation. A1 and A2 surrendered before the VAO, Vellalagundam Village, Valappady Taluk on 19.02.2014 and A3 to A5 were arrested on 20.02.2014.

3.The accused persons moved bail petition before the Mahila Court seeking bail and the Mahila Court, on 26.05.2014 granted statutory bail u/s.167[ii] Cr.P.C., to the accused persons, observing that the investigation was not completed within the stipulated period of 90 days.

4.Learned Government Advocate [CrI.Side] appearing for the petitioner/complainant would state that subsequent to the release on bail, the accused persons threatened the father of the deceased and his family members due to which, they shifted the family and settled down at another village called

Thumbai, Attur Taluk, Salem District. A petition was filed by the State before the Court concerned for cancelling the bail granted to the accused persons and was dismissed on 14.08.2014 by the said Court in CMP No.341/2014. Thereafter, the defacto complainant filed a petition to cancel the bail and the said petition was also dismissed by the said Court.

5.The learned Government Advocate [Crl Side] would further state that the delay in completion of investigation was due to the completion of the medical examination of the vaginal smear and vaginal swab collected from the dead body of the deceased by the Forensic Laboratory, Chennai and the receipt of the report and hence, they could not file the charge sheet within 90 days. Subsequently, the charge sheet was filed on the file of Mahila Court, Salem and the same is taken on file vide Spl. SC.No.01/2014 on 26.06.2014. He would further submit that the defacto complainant, the father of the victim, has lodged a complaint before the Valapady Police Station stating that A1 to A4 are continuously threatening him with dire consequences in person and over cell phone through some unknown persons. Hence, a case in Cr.No.639/2014 u/s.195[A], 506[ii] IPC and 66[A] of I.T. Act, 2008 read with 109 IPC came be registered as against A1 to A4 pursuant to which, they were arrested on 17.09.2014 and subsequently released on bail. The accused persons are politically influential persons and that if they continue to remain at large, there is

every possibility and likelihood of tampering the evidence and witnesses. Hence, he prayed that the bail granted to the accused persons be cancelled and that the petition may be allowed.

6.Mr.P.G.Perumal Pandiyan, learned counsel appointed as Legal Aid Counsel for the respondents refuted the allegations levelled against the respondents and prayed that the bail granted to them shall not be cancelled.

7.This Court heard the rival submissions made on either side and also perused the materials placed on record.

8.As evidenced from the above narrated facts it is seen that the accused persons have committed a heinous crime and that they were granted bail solely on the ground that the investigation was not completed within 90 days and that they were granted statutory bail u/s.167[ii] Cr.P.C. and bail was not granted on merits. Further, a subsequent case has been registered against A1 to A4 on the allegation of threatening the defacto complainant with dire consequences.

9.Considering the nature and gravity of the offence committed by the accused/respondents 1 to 5 and considering their antecedents and further, considering that the case has been committed to trial in Spl.SC.No.1/2014, this

Court is inclined to cancel the bail granted to the accused.

10. Accordingly, the bail granted to the respondents 1 to 5 / A1 to A5, in CMP Nos.258, 259, 261 and 262/2014 by the learned Judge, Mahila Court, Salem on 26.05.2014, is hereby cancelled and the Deputy Superintendent of Police, Valappady Sub Division, Salem District is directed to proceed further in accordance with law.

11. The Legal Aid Board is directed to settle the fees to Mr.PG.Perumal Pandian, Legal Aid Counsel for respondents 1 to 5 within 15 days from the date of receipt of a copy of this order.

12. The Criminal Original Petition is allowed in the above terms.

18.09.2015

smi

To

1. The Deputy Superintendent of Police,
Valappady Sub Division,
Salem District.

2. The Public Prosecutor
High Court, Madras.

S.VAIDYANATHAN, J.

smi

Crl.OP.No.26698 of 2014

18.09.2015