



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Twenty Third day of November Two Thousand Fifteen

PRESENT

The Hon`ble Ms.Justice V.M.VELUMANI

CRL OP(MD) No.19810 of 2015

MUNNA@MOHAMMED RABEEK

... PETITIONER/ACCUSED NO.9

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
CBCID,TIRUNELVELI CITY.
(CRIME NO. 1 OF 2013)

... RESPONDENT/ COMPLAINANT

For Petitioner : M/S T.LAJAPATHI ROY Advocate

For Respondent : MR.K.ANBARASAN, Government Advocate (Crl. Side)

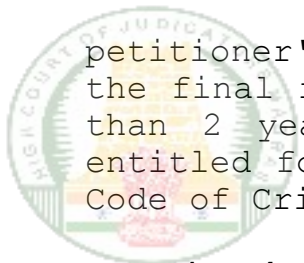
PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner/accused No.9, who was arrested and remanded to judicial custody on 21.08.2013 for the alleged offences punishable under Sections 109, 120(b) and 153-A of the Indian Penal Code and also under Sections 16 and 18 of the Unlawful Activities (Prevention) Act, 1967 and also under Section 4(i) read with (a) and (b) of the Explosives Substances Act, 1908 in Crime No.1 of 2013 on the file of the respondent police and hence, seeks bail.

2. The case of the prosecution is that the petitioner went to Bihar and purchased a pistol and ammunition and handed over to A11, as per the instructions of A19 and conspired with other accused to act against the Nation, innocent people of the Country and sovereignty of India.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he did not commit any offence, as alleged in the First Information Report and charge sheet has already been filed. The petitioner has been implicated as accused No.9, based on the confession statement given by the co-accused. There is no previous case against the petitioner, except the instant case. There is no bad antecedents against the petitioner. He would further submit that in the First Information Report, the



petitioner's name does not find place and his name is found only in the final report and the petitioner is in judicial custody for more than 2 years. His further contention is that the petitioner is entitled for statutory bail as provided under Section 167(2) of the Code of Criminal Procedure, 1973.

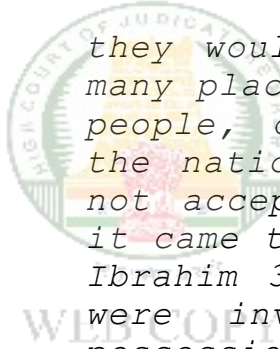
4. The learned counsel for the petitioner would further submit that the charge-sheet has been filed as early as on 23.01.2014 before the Judicial Magistrate Court No.I, Tirunelveli and therefore there is no necessity to detain the petitioner. The co-accused/Accused No.13 has already been granted bail by this Court on 06.03.2015 vide CrI.O.P(MD)No.21507 of 2014; vide order dated 03.07.2015, co-accused/Accused Nos.6, 7 and 10 were already been granted bail by this Court in CrI.O.P(MD)Nos.8181, 6483 and 10047 of 2015 and vide order dated 27.08.2015, the co-accused/Accused Nos.8 and 11 were already been granted bail by this Court. The petitioner filed Cr.M.P.No.4883 of 2013 before the Sessions Court, Tirunelveli and that petition was dismissed on 10.10.2013.

5. The learned Government Advocate (Criminal Side) filed his counter-affidavit and submitted that the petitioner went to Bihar and purchased a pistol and ammunition and handed over to one Mohamed Nazir/All, as per the instructions given by Tada Aslam/A19. In the counter-affidavit in paragraph Nos.9, 10 and 13, it has been stated as follows:-

"9.It is further submitted that the case was charged under Section 4(i) r/w 4 (a) & (b) and 6 of the Explosives Substances Act, 25 (1-B) (a) of the Arms Act 1959, Sections 16, 17 and 18 of the Unlawful Activities (Prevention) Act, 1967, Section 153 (A), 109 r/w 120(b) IPC on 23.01.2014 after obtaining requisite sanction order from the Government of Tamil Nadu and District Collector, Thirunelveli and the same was filed before the learned Judicial Magistrate Court No.1, Tirunelveli and taken on file on 27.01.2014 in PRC No.17 of 2014. The case was reopened on 13.02.2014 as per Section 173 (8) Cr.P.C.

10. It is humbly stated that as per the Government Order in G.O. Ms.No.534 Home (Court II) Department, the case was transferred to the Special Court/Sessions Court for exclusive trial of bomb blast cases, Poonamallee, Chennai and taken on file in C.C.No. 7 of 2014 and the case stands posted to 29.10.2015 for appearance of the accused.

13. It is further submitted that as far as para 3 second part of the bail petition is concerned are false and the reasons stated in para Nos.5,6,7 & 8 of this counter petition. It is further submitted that the petitioner/accused Munna @ Mohamed Rabeek involved in the commission of an offence which is serious in nature. The accused had conspired together to act against the nation, innocent people of the country and sovereignty of India. The accused had actually acted against innocent people in the name of religion. If the above mentioned Country made pistol and 53 rounds of ammunition were not seized by the police on time



they would have used the weapon for their Jihad activities at many places and caused irreparable loss to the lives of innocent people, disharmony between difference religious people and to the nation. Hence, the averments of the petitioner/accused are not acceptable. From the revelation of the petitioner/accused, it came to light that the accused 1) Tada Aslam, 2) Salavudeen @ Ibrahim 3) Mohamed Ansar, 4) Mohamed Nizar 5) Maan @ Sulaimaan were involved in the conspiracy, procurement, transport, possession of illicit weapon i.e., country made pistol and ammunitions."

6. It has been further averred in paragraph No.15 that as per Section 43D(5) of the Unlawful Activities (Prevention) Act, 1967, "Notwithstanding anything contained in the code, no person accused of an offence punishable under chapters IV and VI of this Act shall, if in custody, be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity of being heard on the application for such release: Provided that such accused person shall not be released on bail or on his own bond if the Court, on perusal of the case diary or the report made under section 173 of the Code is of the opinion that there are reasonable grounds for believing that the accusation against such person is prime fact true".

7. The learned Government Advocate (Criminal Side) contended that the involvement of the petitioner in the offence is more serious than that of the other accused persons, as he is the person, who purchased the pistol and ammunition from Bihar. If he is enlarged on bail, he will continue his criminal activities against the nation and innocent people. As per G.O.Ms.No.534 Home (Court II) Department, the case was transferred to the Special Court/Sessions Court for trial of Bomb Blast Cases, Poonamallee, Chennai and taken on file in C.C.No.7 of 2014 and the case stands posted on 10.12.2015.

8. I have carefully gone through the materials available on record and the orders of this Court granting bail to the co-accused.

9. Considering the facts and circumstances of the case and the alleged involvement of the petitioner, I am not inclined to grant bail to the petitioner, at this stage, as the involvement of the petitioner is more serious in nature and is not similar to that of the co-accused, who were enlarged on bail. Accordingly, the Criminal Original Petition is dismissed.

sd/-
23/11/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1 THE JUDICIAL MAGISTRATE NO.I, TIRUNELVELI.

2 DO THROUGH THE CHEIF JUDICIAL MAGISTRATE, TIRUNELVELI

3 THE SESSIONS JUDGE, TIRUNELVELI.

4 THE SPECIAL COURT/SESSIONS COURT FOR TRIAL OF BOMB BLAST CASES,
POONAMALLEE, CHENNAI.

5 THE INSPECTOR OF POLICE, CBCID, TIRUNELVELI CITY.

6 THE ADDITIONAL PUBLIC PROSECTUOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

7 THE SUPERINTENDENT, CENTRAL PRISON, COIMBATORE.

CSL/PM/SAR-I/02.12.2015
4P/8C

ORDER
IN
CRL OP (MD) No.19810 of 2015
Date :23/11/2015