



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

Wednesday, the Fifteenth day of July Two Thousand Fifteen
PRESENT

The Hon`ble Mr Justice K.KALYANASUNDARAM

CRL OP(MD) No.7318 of 2015

A.H. MOHAMMED ANSAR

... PETITIONER/ACCUSED No.13

Vs

THE DEPUTY SUPERINTENDENT OF POLICE,
O.C.U-CBCID, TIRUNELVELI DT,
CRIME NO.1/2013

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.M.SEENISULTHAN Advocate

For Respondent : MR.K.V.RAJARAJAN, Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioner, who is arrayed as A8 was arrested 05.08.2013 and remanded to judicial custody for the alleged offences punishable under sections 109, 120(B) and 153-A of IPC and sections 16, 17 and 18 of the Unlawful Activities (Prevention) Act, 1967 and section 4(i) r/w 4(a) & (b) and 6 of the Explosives Substances Act, 1908 and section 25 (1-B)(a) of the Arms Act, 1959 in Crime No.1 of 2015 on the file of the respondent police and hence, seeks bail.

2.It is the case of the prosecution that pursuant to the murder of a Leader belonging to a Hindu Organisation, a case in Crime No.297 of 2013 for an offence under section 302 IPC was registered by the Hasthampatti Police station in Salem. A special team was formed to nab the accused involved in the case. One Nagarajan, Inspector of Police, Tiruppur North Police station was enlisted in the special team. The said Nagarajan and his colleagues were gathering intelligence and were maintaining surveillance over a period of time over various suspects. On the basis of credible intelligence, they were keeping watch over the movements of some suspects in the Melapalayam Bye-Pass road on 27.07.2013. They found the movements of two persons to be suspicious and so they intercepted them and ascertained their names as Mohammed Tasim and Sahul Hameed. The intercepted persons were having a parcel with them. On scrutiny of the Parcel, it was found to contain high end explosives.

3.On questioning Md.Tasim and Sahul Hameed, it came to light that they and others named by them have planned to systematically eliminate several notable Hindu Leaders and create communal disturbance in the State. Md.Tasim and Sahul Hameed were produced before the respondent police by the Special Team and a case in Tirunelveli City, CBCIB Crime No.1 of 2013 was registered by the respondent police for offences under sections 109, 120(B) and 153-A IPC, section 5 of Indian Explosives Substances Act, 1908 and section 18 of the Unlawful Activities (Prevention) Act, 1967. Md.Tasim and Sahul Hameed were arrested and further investigation was carried on by the respondent police.



4. During the course of investigation, the police arrested about 19 accused including the petitioners herein and after completion of investigation, a final report under section 173(2) Cr.P.C was filed before the learned Judicial Magistrate No.1, Tirunelveli on 23.01.2014 for offences under sections 4(i) r/w 4(a) & (b) and 6 of the Explosives Substances Act, 25(1-B)(a) of the Arms Act, 1959, section 16, 17 and 18 of the Unlawful Activities (Prevention) Act, 1967, 153(A), 109 r/w 120(B) IPC.

5. The learned Judicial Magistrate took the same on the file in PRC No.17 of 2014 and the case was committed to the Sessions Court for trial later transferred to the Special Court for Bom-Blast Cases, Poonamalli, Chennai, on the orders of the State Government in G.O.Ms.No.534 Home (Court II) Department and has been assigned as C.C.No.7 of 2014. In the final report, it is stated that all the accused had conspired in the name of 'Jihad' to murder Hindu Leaders such as Arvind Reddy, Paramakudi Murugan, Vellore Vellaiappan and also had planted bombs on the scheduled route of Shri.L.K.Advani's rath yatras.

6. The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has nothing to do with the alleged occurrence; that there are totally 19 accused were implicated in this case and charge sheet was filed by the respondent police and the same was taken as PRC No.17 of 2014 on the file of the learned Judicial Magistrate No.1, Tirunelveli; that A1 to A5 were released on bail by this court in CrI.O.P.(MD)Nos.3432 and 3433 and 4571 of 2014, dated 25.07.2014 and A13 was also released on bail in CrI.O.P(MD)No.21507 of 2014, dated 06.03.2015; and that G.O.Ms.No.534 was challenged by the accused in W.P.Nos.33234 and 33235 of 2014 and they were allowed.

7. The learned counsel for the petitioner further submitted that the petitioner was implicated on the basis of the confession of the co-accused, except the statements, there is no other material to show that the petitioner is involved in the conspiracy to commit the offence. Further, the prosecution heavily relies on untrustworthy and chance witnesses and that the alleged confession and recovery of a Pistol and ammunition are stage managed and also not recovered from the petitioner. It is further submitted that the petitioner is in judicial custody for more than one year and hence, his bail petition may be considered.

8. The learned Government Advocate (Criminal side) for the respondent has filed a counter, vehemently objecting to grant bail to the petitioner and submitted that A8 Mohammed Ansar was arrested on 14.08.2013 and a pistol, 53 rounds of ammunition and green colour reksin bags were recovered from him and at the time of custodial interrogation, he has stated that the accused Maan @ Sulaiman handed over a pistol and 53 rounds ammunition and informed that the pistol was purchased by one Munna @ Mohamed Rabeek from Bihar and further A8 has given confession stating that he had frequent contacts and the knowledge of criminal conspiracy to eliminate Hindu Leaders with other accused and in the movement of Jihad. It is further submitted that all the accused have also participated in the criminal conspiracy to procure, possess and transport explosives illegally to be used for the purpose of Jihad.

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9. I have perused the case records and statement of witnesses relied on by the prosecution.



10. Considering the serious allegations made against the petitioner and also considering the fact that the pistol and explosives were recovered pursuant to the confession of the petitioner, this court is of the opinion that the petitioner is not entitled for bail. Hence, this petition is dismissed.

sd/-
15/07/2015

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

TO

- 1 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
- 2 THE DEPUTY SUPERINTENDENT OF POLICE,
O.C.U-CBCID, TIRUNELVELI DT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.M.SEENISULTHAN Advocate SR.No.38719

ORDER
IN
CRL OP(MD) No.7318 of 2015
Date :15/07/2015

PA/PRV/20.07.2015/3P/5C