



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

Friday, the Third day of July Two Thousand Fifteen

PRESENT

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The Hon`ble Mr Justice K.KALYANASUNDARAM

Crl.O.P.(MD)Nos.8181, 6483 and 10047 of 2015

BILAL HUSAIN (A6) ... Petitioner(s) in CRL OP(MD). 8181/ 2015

SALAHUDEEN @ IBRAHIM ... Petitioner(s) in CRL OP(MD). 6483/ 2015

SYED ALI, ... Petitioner(s) in CRL OP(MD). 10047/ 2015
- Vs. -

THE INSPECTOR OF POLICE OCU,
CBCID, TIRUNELVELI CITY POLICE STATION, TIRUNELVELI DIST, CR.NO.1/2013
... Respondent(s) in CRL OP(MD). 8181/ 2015

THE DEPUTY SUPERINTENDENT OF POLICE, OCU, CBCID,
TIRUNELVELI, CR.NO.1/2013
... Respondent(s) in CRL OP(MD). 6483/ 2015

THE INSPECTOR OF POLICE OCU CBCID, TIRUNELVELI CITY POLICE STATION,
TIRUNELVELI, CRIME NO..1 OF 2013
... Respondent(s) in CRL OP(MD). 10047/ 2015

For Petitioner : M/S. T. LAJAPATHI ROY Advocate
in CRL OP(MD). 8181/ 2015

For Petitioner : M/S. MR.SIAK. BAGABUR SHA Advocate
in CRL OP(MD). 6483/ 2015

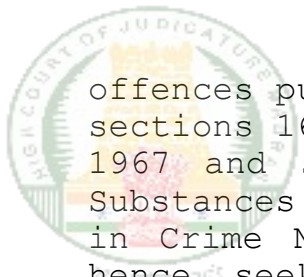
For Petitioner : M/S. K.K. SENTHILVELAN Advocate
in CRL OP(MD). 10047/ 2015

For Respondent : The Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioners in Crl.O.P(MD)Nos.8181 and 6483 of 2015, who were arrayed as A6 and A10 were arrested and remanded to judicial custody on 06.08.2013 and 22.08.2013 and the petitioner in Crl.O.P (MD)No.10047 of 2015, who was arrayed as A7 had voluntarily surrendered before the Judicial Magistrate No.1, Tirunelveli on 17.10.2013 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 respectively.

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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 yatrs.



6.The learned counsel for the petitioners submitted that the petitioners are innocent persons and they have 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 petitioners further submitted that the petitioners were implicated on the basis of the confession of the co-accused, except the statements, there is no other material to show that the petitioners are involved in the conspiracy to commit the offence. Further, the prosecution heavily relies on untrustworthy and chance witnesses and that except statement of witnesses, there was no recovery from the petitioners nor any material against them. The learned counsel has taken the through the statement of witnesses. It is further submitted that the petitioners are in judicial custody for more than one year and hence, their 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 petitioners and submitted that A6 Bilal Husain was arrested, based on the confession of A2 Shahul Hameed @ Katta Shahul and A6 has given confession stating that he had frequent contacts and the knowledge of criminal conspiracy to eliminate Hindu Leaders with other accused and that he transported explosives with the knowledge and in the movement of Jihad. It is further submitted that one Abubucker Siddique @ Poli and two more witnesses, namely Krishnakumar and Nagarajan have given statement against A6.

9.The learned counsel further submitted that as far as A10 Salavudeen @ Ibrahim is concerned, as per the confession of the co-accused Mohamed Thasin and Kitchan Buhari, A10 deposited Rs.50,000/- in the account of one Samiullah, who is the brother-in-law of Munna @ Mohamed Rabeek to purchase a pistol and ammunitions from the said Munna @ Mohamed Rabeek and he has also involved in the conspiracy of purchasing pistol and other explosives.

10.The learned Government Advocate (Criminal side) further submitted that A7 Syed Ali was implicated based on the confession of the co-accused John Asir and thereafter, he himself voluntarily surrendered before the Judicial Magistrate No.1, Tirunelveli and he was taken into police custody on 21.10.2013 and thereafter, he confessed that he transported explosives, which were handed over by A12 Daniel Prakash and handed over the same to Sahul Hameed Badhusa @ Paravai Badhusa and the police has seized a two wheeler from A7, which was used for transporting the explosives. It is further submitted that all the petitioners have also participated in the



criminal conspiracy to procure, possess and transport explosives illegally to be used for the purpose of Jihad.

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

12. Taking note of the fact that A1 to A5 and A13 were already granted bail by this court on 25.07.2014 and 06.03.2015 respectively and also considering the materials relied on by the prosecution against the petitioners, this court prima facie satisfies with the contentions of the learned counsel for the petitioners. Hence, this court is of the opinion that the petitioners are entitled for bail with certain conditions. Accordingly, the petitioners are ordered to be released on bail subject to the following conditions:-

(a) Each petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Tirunelveli;

(b) the petitioners shall report before the respondent police daily at 06.00 p.m. until further orders;

(c) the petitioners shall not temper with evidence or witness either during investigation or trial;

(d) the petitioners shall not abscond either during investigation or trial; and

(e) In the event of any violation of the above conditions, the respondent/Police is at liberty to move application for cancellation of bail.

sd/-

03/07/2015

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

TO

1 THE JUDICIAL MAGISTRATE NO. I, TIRUNELVELI
2 THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI
3 THE ADDL. PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

4 THE INSPECTOR OF POLICE OCU,
CBCID, TIRUNELVELI CITY POLICE STATION,
TIRUNELVELI DIST, CR.NO.1/2013



6 THE INSPECTOR OF POLICE OCU CBCID,
TIRUNELVELI CITY POLICE STATION, TIRUNELVELI

7 THE SUPERINTENDENT,
OF CENTRAL PRISON
PALAYAMKOTTAI

1. CC to M/S MR.SIAK. BAGABUR SHA Advocate SR 36184
3. CC to M/S K.K. SENTHILVELAN Advocate SR 33862

DM 8 7 15 5P 10C

ORDER

IN

CrI.O.P. (MD) Nos. 8181, 6483 and 10047 of 2015

Date : 03/07/2015