



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

Thursday, the Fourteenth day of July Two Thousand Sixteen
PRESENT

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

CRL OP(MD) Nos.10515 & 10516 of 2016

WEB COPY

1 CHINNATHAMBI @ ESAKKIRAJA
2 SUBBURAJ

... PETITIONERS/ACCUSED NO.14 & 16
IN CRL OP(MD)NO.10515/2016

MUTHUMANO

... PETITIONER/ACCUSED NO.11
IN CRL OP(MD)NO.10516/2016

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
AUTHOR POLICE STATION,
TUTICORIN DISTRICT,
CR NO. 84/2016.

... RESPONDENT/COMPLAINANT IN BOTH PETITIONS

For Petitioners : M/S K.SEEMARAJ Advocate in both petitions

For Respondent :MR.P.KANNITHEVAN, Govt.Advocate(Crl.Side)in both petitions

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

ORDER : The Court Made the following order :-

The petitioners/Accused Nos.14, 16 and 11, who were arrested in reference to Crime No.84 of 2016 on the file of the respondent police and remanded to judicial custody on 18.03.2016 for the alleged offences punishable under Sections 147, 184, 149, 120(b), 109, 302 and 201 IPC and Section 3 of Explosive Substances Act, 1908, seek bail.

2. The case of the prosecution is that the accused persons conspired together to do away with the deceased and in furtherance of the same, they formed an Unlawful Assembly and by throwing Bombs, they murdered the deceased. On a complaint, the above referred case has been registered against the accused persons.

3. The case of the petitioners is that they are innocents and they did not commit any offence, as alleged by the prosecution. Their names did not find place in the FIR, hence, it can be well presumed that they have been falsely implicated in the case.

4. Learned counsel for the petitioners submitted that this Court, in Crl.O.P.(MD)No.7940 of 2016, enlarged the co-accused on bail. The petitioners herein, who suffer incarceration from 18.03.2016, being similarly placed co-accused, prayed for grant of bail in their favour.

5. Learned Government Advocate (Criminal side) submitted that this is a case of retaliatory murder. In a communal clash that took place in Tuticorin District, 37 persons were murdered and Accused Nos.13 and 20, who were enlarged on bail, are not subsequently, complying with the conditions imposed by the Court. Further, even after receiving summons,



the other co-accused are not appearing before the Trial Court. He further submitted that when this Court passed an order, enlarging the co-accused on bail, it was not brought to the notice of this Court that A13 and A20 after being enlarged on bail absconded and investigation could not be proceeded with and completed. Therefore, the respondent police filed Crl.M.P.(MD)No.5151 of 2016 in Crl.O.P.(MD)No.7940 of 2016 and Crl.M.P.(MD)No.5074 of 2016 in Crl.O.P.(MD)No.8075 of 2016, for cancellation of bail. If the petitioners are enlarged on bail, they will tamper with evidence and threaten the witnesses and hamper the course of investigation. Earlier, the petitioners filed Crl.O.P.(MD) Nos.8964 and 8965 of 2016 for bail and the same were dismissed by this Court, vide order dated 16.06.2016. Therefore, he prayed for dismissal of the Criminal Original Petitions.

6. I have carefully considered the rival submissions advanced on either side.

7. This Court could see considerable force in the submissions of the learned Government Advocate (Criminal side). When co-accused including A13 and A20, who are enlarged on bail, are absconding and investigation could not be proceeded with and completed, enlarging the present petitioners on bail would not be in favour of an effective investigation. Also, the petitioners have miserably failed to show any change of circumstances after the order of dismissal of their previous bail applications in Crl.O.P.(MD)Nos.8964 and 8965 of 2016, so as to otherwise consider their present prayer. Therefore, finding no merits in the Criminal Original Petitions, the same stand dismissed.

sd/-

14/07/2016

/ TRUE COPY /

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

TO

- 1 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.
- 2 THE INSPECTOR OF POLICE, AUTHOR POLICE STATION, TUTICORIN DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1cc to M/S.K.SEEMARAJ, Advocate in SR.No.36807

ORDER

IN

CRL OP(MD) Nos.10515 & 10516 of 2016
Date :14/07/2016

PA/SK-SKN/SAR III/26.07.2016/2P/5C