



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

Thursday, the Twenty Second day of September Two Thousand Sixteen

PRESENT

The Hon`ble Mr.Justice C.T.SELVAM

CRL OP(MD) Nos.16789 and 17425 of 2016

V.P.PANDI @ ATTACK PANDI

... PETITIONER/ACCUSED NO.I
IN CRL OP(MD)NO.16789/2016
AND PETITIONER/ACCUSED NO.7
IN CRL OP(MD)NO.17425/2016

Vs

STATE REP.BY ,
THE INSPECTOR OF POLICE,
SUBRAMANIAPURAM POLICE STATION,
MADURAI,
MADURAI DISTRICT.
CRIME NO.68 OF 2016
AT PRESENT CRIME NO.11 OF 2015
IN C.B.C.I.D. MADURAI

... RESPONDENT/COMPLAINANT
IN CRL OP(MD)NO.16789/2016

THE STATE
REP.BY ITS,
THE INSPECTOR OF POLICE,
K.PUDHUR POLICE STATION,
MADURAI,
MADURAI DISTRICT.
CRIME NO.1017 OF 2015

... RESPONDENT/COMPLAINANT
IN CRL OP(MD)NO.17425/2016

For Petitioner : MR.R.GANDHI, Learned Senior Counsel for
M/S.N.ILANGO Advocate in CRL OP(MD)NO.16789/2016

For Petitioner : MR.RUPERT J.BARNABAS, Learned Counsel for
M/S.N.ILANGO Advocate in CRL OP(MD)NO.17425/2016

For Respondent : MR.RAJARATHINAM, State Public Prosecutor
in both the petitions

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

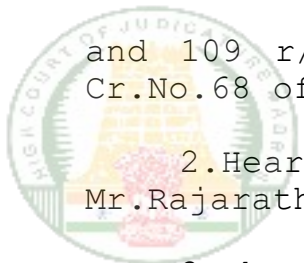
ORDER : The Court Made the following order :-

COMMON ORDER

Cr1.O.P. (MD) No.16789 of 2016:

<https://hcservices.ecourts.gov.in/hcservices/>

Petitioner/A1, who was arrested on 21.09.2015 for offences
punishable under Sections 147, 148, 341, 342, 212, 216, 302, 120(b)

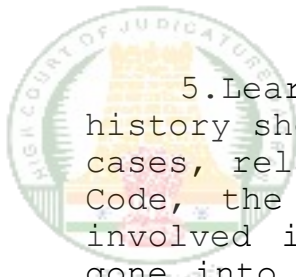


and 109 r/w 149 & 34 I.P.C. and Section 3(1) of TNPPDL Act in Cr.No.68 of 2013 on the file of the respondent police, seeks bail.

2.Heard Mr.R.Gandhi, learned Senior Counsel for petitioner and Mr.Rajarathinam, State Public Prosecutor for State.

3.The case of the prosecution is that on 31.01.2013, at about 20.15 hours, one K.R.Manikandan, driver of the deceased Pottu Suresh preferred a complaint that at about 19.50 hours, when he was driving his employer, Pottu Suresh, back home from office in a Skoda Car, two persons in a Apache bike and 5 to 6 persons in a Tata Ace vehicle waylaid the car near Murugan Kovil Road Junction, attacked Pottu Suresh with deadly weapons and murdered him. On receipt of the complaint, the Sub Inspector of Police registered a case in Crime No.68 of 2013 under Section 147, 148, 341, 427 and 302 I.P.C. The Inspector of Police took up investigation. During the course of investigation, 18 accused surrendered or were arrested in connection with this case. The case was transferred to CBCID on 20.11.2015 as per orders of the Director General of Police, Tamil Nadu. After completion of investigation, final report in the case was filed on 17.12.2015 and the same was taken on file in PRC No.47 of 2015 by the Judicial Magistrate No.IV, Madurai on 31.12.2015. The petitioner/accused has been charged under Section 302, 120(b) r/w 34 I.P.C.

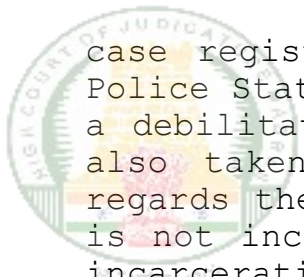
4.Learned Senior Counsel for petitioner submitted that petitioner had been arrested at Mumbai on 31.12.2015. The petitioner was not named in the F.I.R. and stands arrayed as an accused, only on being implicated by a co-accused in an alleged confession made to the police. Fearing for his life and that he would be done away with in an encounter, petitioner had been forced to stay away from Madurai. Deceased was a goonda, who had been involved in two murder cases. The petitioner and the deceased had been friends and petitioner had nothing against him. Case upon case has been falsely foisted upon the petitioner and in as many as in five of them referred charge sheet has been filed. Petitioner's wife suffers from a serious heart ailment and is in need of immediate surgery. Petitioner also has to take care of his aged mother and two minor children. Unless petitioner is released on bail, he would not be in a position to arrange funds towards treatment of his wife. Petitioner has been in custody for a year now. Except petitioner all other 17 accused are on bail. Learned Senior Counsel for petitioner relied on the decision of the Hon'ble Apex Court in **Sanjay Chandra v. CBI [(2012) 1 SCC 40]** to impress upon this Court that personal liberty was a very precious fundamental right which ought not to be easily curtailed. The accused must be presumed innocent until proved guilty. Deprivation of liberty must be considered as punishment, unless it is found that the trial will be affected if the accused is released on bail. The accused should not be deprived of liberty only upon the belief that he may tamper with the witnesses. Bail ought not to be denied as a mark of disapproval of former conduct. Submitting as above, learned Senior Counsel submitted that the petitioner will comply with any conditions imposed by this Court and sought bail.



5. Learned Public Prosecutor submitted that the petitioner was a history sheeted rowdy involved in as many as in 20 other cases. Such cases, related to both larger and lesser offences under Indian Penal Code, the Arms Act as also other enactments. Petitioner, who is involved in the occurrence on 31.01.2013 in the instant case had gone into hiding and subsequent to his being declared a proclaimed offender, his property has also been attached. Uncaringly, petitioner had continued to evade the law and several teams had been formed towards apprehending him. He eventually was arrested at Mumbai on 21.09.2015. Petitioner had been detained as a 'Goonda' under Tamil Nadu Act 14 of 1982 and such detention order subsequently has been set aside. Even while in prison, petitioner had involved himself in one more case of offence under Section 307 I.P.C. One of the co-accused in such case surrendered on 02.02.2013, and his confession brought to light the involvement of the petitioner. While bank accounts at different places were opened in different names towards funding the commission of offences, all the A.T.M. Cards were being put to use only by the petitioner. The A.T.M. Card of account standing in the name of 10th accused had been seized from this petitioner. Charge sheet informed that in a war of political one upmanship petitioner had engineered the death of the deceased. Out of the 20 cases against the petitioner, he had been acquitted in two, while others were pending, in some of which he had been granted bail. Petitioner has absolutely no respect for the law and his enlargement on bail would seriously affect fair trial in that his being at large would work against free deposition of the witnesses in the case. Learned Public Prosecutor would reiterate that petitioner is an accused in case in Crime No.1017 of 2015 for offences under Sections 341, 294(b), 307, 120(b), 506(ii) I.P.C. on the file of E1, K.Pudur Police Station relating to an attack on a witness in the present case. Learned Public Prosecutor also submits that the petitioner himself would be unsafe if let at large.

6. Learned Public Prosecutor further submitted that an earlier application for bail in CrI.O.P.(MD) No.10462 of 2016 had been dismissed by a reasoned order dated 21.07.2016 and there was no change of circumstances warranting the release of petitioner on bail. Committal in the case is being delayed owing to absence of one accused or the other in the committal proceedings. Petition to split up the case is pending consideration before the committal Magistrate.

7. On consideration of rival submissions, this Court is of the view that it would not be appropriate to grant the relief prayed for. A most detailed order has been passed in dismissing CrI.O.P. (MD) No.10462 of 2016 on 21.07.2016. This Court is unable to see the reported ill-health of the petitioner's wife and need for immediate treatment as a change of circumstance, which would entitle the petitioner to bail. Though the petitioner has been in jail for a period of one year, it is seen that in respect of the occurrence of 31.01.2013, petitioner's apprehension became possible only on 21.09.2015 at Mumbai. Prosecution alleges petitioner's involvement in the attempt to murder one of the witnesses in the present case in



case registered in Crime No.1017 of 2015, on the file of K.Pudur Police Station, Madurai. The petitioner being at large may well have a debilitating effect on the prosecution witnesses. This Court has also taken into consideration the mutual concern of both sides regards the petitioner's safety if at large. Even though this Court is not inclined to release the petitioner on bail, long continuous incarceration of petitioner pending trial also is not desirable.

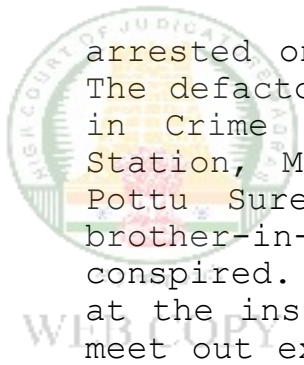
Crl.O.P. (MD) No.17425 of 2016:

8.Petitioner/A1, who was arrested on 21.12.2015 for offences punishable under Sections 341, 294(b), 307, 120(b), 506(ii) and 109 r/w 149 I.P.C. in Cr.No.1017 of 2015 on the file of the respondent police, seeks bail.

9.Heard Mr.Rupert J. Barnabas, learned Counsel for petitioner and Mr.Rajarathinam, State Public Prosecutor for State.

10.Learned Counsel for petitioner submitted that the attack on the defacto complainant had allegedly taken place on 21.11.2015 at 23.10 hours and though the Police Station was just 1 km away from the scene, the F.I.R. had been registered at 10.30 hours on 22.11.2015, ie., after a delay of 12½ hours. The reason informed by the prosecution is that the defacto complainant had been rendered unconscious in the attack. Referring to the typed set, learned Counsel for petitioner submitted that the statement of the Principal Medical officer, Apollo Hospital, K.K. Nagar, Madurai informed of the defacto complainant having told him that he had suffered a knife attack at the hands of one unknown person at 11.00 p.m. In such statement, position of the defacto complainant having been rendered unconscious has not been stated. Petitioner had been roped in on the alleged confession of a co-accused, who was in custody. The Village Administrative Officer and his Assistant, stock witnesses, had been shown as witnesses thereto. It was the prosecution allegation that even while in jail petitioner had conspired to do away with the defacto complainant, such conspiracy having been entered into with persons who visited him. Visitors to prison were always within ear shot of the warden and so any conspiracy in which accused was involved must be to the knowledge of the jailer. In the instant case, no statement of the jailer had been recorded and hence the theory of conspiracy was unfounded. Taking recourse to Right to Information Act, it had been ascertained that one S.Jeyaram, the Assistant Jail Warden had been on duty on the various dates on which the brother-in-law and friends of the petitioner had visited him. Though the prosecution alleges that petitioner is a history sheeted rowdy, he has not been convicted thusfar in a single case. Prosecution has nothing to justify the allegation that the petitioner lives a life of crime. The defacto complainant had not implicated the petitioner. He merely stated he did not know the accused. Therefore, the present case is one in which petitioner has been falsely implicated. Petitioner is in custody for more than 275 days. His wife suffers from health issues and petitioner has to take care of two minor children. Submitting that petitioner will comply with any conditions imposed by this Court, learned counsel urges bail.

11.Learned Public Prosecutor submitted that petitioner was



arrested on 21.12.2015. Petitioner is the 7th accused in the case. The defacto complainant/injured is a prosecution witness in the case in Crime No.68 of 2013 on the file of Subramaniapuram Police Station, Madurai, registered in connection with the death of one Pottu Suresh, a case with political overtones. Petitioner, his brother-in-law and assailant in the case have met in jail and conspired. The other accused in the case met the defacto complainant at the instigation of the petitioner and made demands for money to meet out expenses in the other case. As the defacto complainant did not oblige, he was set upon.

12.Learned Public Prosecutor repeats the other concerns informed by him in Crl.O.P.(MD) No.16789 of 2016 viz. Petitioner a history sheeted rowdy involved in as many as 20 other cases. Such cases, relate both to larger and lesser offences under Indian Penal Code, the Arms Act as also other enactments. Petitioner, who is involved in an occurrence of 31.01.2013 had gone into hiding and subsequent to his being declared a proclaimed offender, his property has also been attached. Uncaringly, petitioner had continued to evade the law and several teams have been formed towards apprehending him. He eventually was arrested at Mumbai on 21.09.2015. Petitioner had been detained as a 'Goonda' under Tamil Nadu Act 14 of 1982 and such detention order subsequently has been set aside. While bank accounts at different places were opened in different names towards funding the commission of offences, all the A.T.M. Cards were being put to use only by petitioner. Learned Public Prosecutor further submitted that charge sheet stands filed and the case is pending committal in P.R.C.No.52 of 2016.

13.On consideration of the rival submissions, this Court, given the serious nature of prosecution allegations against the petitioner, that he is behind the attack on a witness in another case of murder, that the petitioner had gone into hiding for a period of 2 years, that only on formation of several teams he was apprehended in Mumbai in the other case and that his being at liberty could have a serious impact on prosecution witnesses is not inclined to grant bail to the petitioner. Even though this Court is not inclined to release the petitioner on bail, long continuous, incarceration of petitioner pending trial is not desirable.

14.Accordingly, it is ordered as follows:

1. (i) Crl.O.P.(MD) No.16789 of 2016 shall stand dismissed.
- (ii) The Committal Magistrate is directed to split up the case against this petitioner and other accused who are before it and complete the committal proceedings regards them at the earliest.
- (iii) Upon committal, the concerned trial Court shall deal with the case expeditiously and dispose of the same, in any event not later than 6 months from the date of committal to it.

2. (i) Crl.O.P.(MD) No.17425 of 2016 shall stand dismissed.
- (ii) The Committal Magistrate is directed to complete the committal proceedings at the earliest.
- (iii) Upon committal, the concerned trial Court shall deal with the case expeditiously and dispose of the same, in any event not



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later than 6 months from the date of committal to it.

sd/-

22/09/2016

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.IV,
MADURAI.
 - 2 THE JUDICIAL MAGISTRATE NO.VI,
MADURAI.
 - 3 DO THROUGH THE CHEIF JUDICIAL MAGISTRATE,
MADURAI.
 - 4 THE I ADDITIONAL SESSIONS JUDGE,
MADURAI.
 - 5 THE INSPECTOR OF POLICE,
SUBRAMANIAPURAM POLICE STATION,
MADURAI, MADURAI DISTRICT.
 - 6 THE INSPECTOR OF POLICE,
K.PUDHUR POLICE STATION,
MADURAI, MADURAI DISTRICT.
 - 7 THE INSPECTOR OF POLICE,
C.B.C.I.D,
MADURAI CITY.
 - 8 THE ADDITIONAL PUBLIC PROSECTUOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
 - 9 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
- +4 CC'S TO M/S.N.ILANGO, ADVOCATE IN SR.NOS.54740 AND 54741

SJ

CSL/SKS-RR/SAR-I/26.09.2016: 6P/14C

ORDER

IN

CRL OP (MD) Nos.16789 and 17425 of 2016

Date :22/09/2016