

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty Seventh day of November Two Thousand

Seventeen

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

CRIMINAL ORIGINAL PETITION No.22031 of 2017

V.UDAYAKUMAR

[PETITIONER / ACCUSED]

Vs

1 STATE REP BY

[RESPONDENT]

STATION HOUSE OFFICER,
INSPECTOR OF POLICE,
THIRUBUVANAI POLICE STATION,
PUDUCHERRY.

(CASE TRANSFERRED TO CBCID).
CR.NO.40 OF 2017.

For Petitioner : M/S.P.VEERARAGHAVAN Advocate

For Respondent : MR. M.R. THANGAVEL, Public prosecutor
(Pondicherry)

PETITION FOR BAIL 439 Cr.P.C.

ORDER : The Court Made the following order :-

This is the third bail application and the first bail application in CrI.O.P.No.9258 of 2017 was dismissed by this Court on 28.06.2017 and the second bail in CrI.O.P.No.20011 of 2017 was dismissed by this Court on 21.09.2017.

2. It is the case of the prosecution that on 19.04.2017, bombs were thrown on Velazhagan, a small time entrepreneur in Puducherry belonging to Dalit community by some suspected persons, resulting in his death. A case in Cr.No.40 of 2017 was registered for the offences under Section 302 IPC and Section 3 of the Explosive Substances Act and investigation was taken up.

3. During the course of investigation, the police arrested Karthikeyan @ Ramesh [A4] and Sivaraman [A5], who spilled the beans. Subsequently, this petitioner was arrested and it came

to light that it was this petitioner, who had organised hirelings to eliminate Velazhagan on account of business rivalry.

4. Learned counsel for the petitioner submitted that investigation has been completed; that charge sheet has been filed; that the case has also been committed to the Court of Sessions and therefore, the petitioner should be released on bail for an effective defence. He also submitted that the petitioner was detained under preventive detention law, which was revoked by the Advisory Board itself and that he belongs to a political party and therefore, he has been victimised.

5. Per contra, the respondent police have filed a counter affidavit, wherein, they have set out the role played by this petitioner in the conspiracy to eliminate a Dalit. Initially, a case was registered by Thirubuvana Police Station and on the orders of the Government, it was transferred to the CB-CID, since there was a public outcry on the ghastly manner in which the offence was perpetrated. In the counter affidavit of the police, they have recorded the 164 Cr.P.C. statement of witnesses Anbarasan and Seeralan.

6. On a reading of the 164 Cr.P.C. statement of witnesses, it is seen that the deceased Velazhagan had taken labour contracts from several private companies, which was not to the liking of certain vested interests, including the petitioner herein. Anbarasan has further stated that there was a dispute between the petitioner and the deceased in respect of a cut out of Velazhagan that was destroyed by a worker of the petitioner and when the same was questioned by Velazhagan, the petitioner had challenged him. The police have also taken the call detail records of the accused person to clearly show that all of them were in contact with one another immediately prior and after the brutal attack. The police have also filed an application for further investigation to include the provisions of the Scheduled Castes and the Scheduled Tribes

(Prevention of Atrocities) Act, in the charge sheet and the same is pending before the trial Court. That apart, in the counter affidavit filed by the police, they have stated the previous case particulars, which are as under:

"the petitioner/accused Udayakumar having criminal background and he is a Rowdy sheet holder of Thirubhuvanai PS involved in the following criminal cases:

i Crime No.190/2004 U/s 448, 506(ii) IPC
r/w 34 IPC of Thirubuvana Police Station -
Acquitted.

ii I.R.No.70/2007 U/s 107 Cr.P.C. of
Thirubuvanai PS.

iii Crime No.51/2014 U/s 188 IPC r/w 34 IPC
of Thirubuvanai PS - Pending Trial."

7. According to the learned counsel for the petitioner, the petitioner was acquitted in the first case and the other two cases are political cases.

8. Recently, in **Prasanta Kumar Sarkar vs. Ashis Chatterjee and another [(2010) 14 SCC 496]**, the Supreme Court has reiterated the parameters for granting bail. The Supreme Court has held that while granting bail, the Court should bear in mind, the gravity of the offence, the character and behaviour of the accused and danger, of course, of justice, being thwarted.

9. In this case, even according to the learned counsel for the petitioner, the petitioner is a local political bigwig with criminal track record. Hence, the case of the petitioner does not pass muster the law laid down by the Supreme Court in the above said judgment for grant of bail. Just because the order of Preventive Detention has been revoked by the Government, it will not automatically mean that the petitioner can be released on bail.

In the result, this petition is dismissed as being devoid of merits.

-sd/-
27/11/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 STATE REP BY
STATION HOUSE OFFICER, INSPECTOR OF POLICE,
THIRUBUVANAI POLICE STATION, PUDUCHERRY.
(CASE TRANSFERRED TO CBCID).

2 THE PUBLIC PROSECUTOR
PUDUCHERRY

3 THE SUPERINTENDENT,
CENTRAL PRISON, KALAPET, PUDUCHERRY

+1 CC to M/S.P.VEEARAGHAVAN Advocate on payment of
necessary charges Sr.No.21562

CRL OP.22031/2017

Date :27/11/2017

MD: 28/11/2017