



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2017

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CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CRL.A (MD) No.284 of 2017

Subash : Appellant

Vs.

The State by
The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli
(Crime No.374 of 2017)

: Respondent

PRAYER: Criminal Appeal is filed under Section 14A(2) of SC/ST (POA) Amendment Act 2015 praying to set aside the order dated 14.07.2017 made in CrI.M.P.No.1752 of 2017 on the file of the II Additional District and Sessions Court cum PCR Court, Tirunelveli and restore the appellant's complaint and enlarge the appellant on bail in connection with the case in Crime No.374 of 2017 pending investigation on the file of the respondent police station.

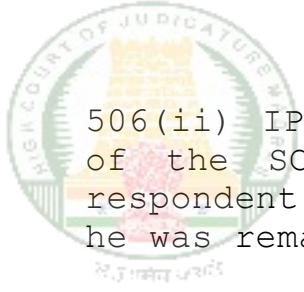
For appellant : Mr.P.Samuel Gunasingh

For respondent : Mr.A.Ramar
Additional Public Prosecutor.

JUDGMENT

This Criminal Appeal is filed against the order dated 14.07.2017 passed in CrI.M.P.No.1752 of 2017 by the II Additional District and Sessions Court - cum - PCR Court, Tirunelveli, dismissing the bail application filed by the appellant herein.

2.The case of the prosecution is that due to previous motive, the accused persons are said to have waylaid the deceased and attacked him with deadly weapon and thereby caused fatal injuries. On the basis of the complaint, a case has been registered in Crime No.374 of 2017 against the appellant and others for the offences punishable under Sections 120(b), 147, 148, 294(b), 324, 302 and



506(ii) IPC and also under Section 3(1)(r), 3(1)(s) and 3(2)(va) of the SC/ST (POA) Amendment Act, 2015, on the file of the respondent police. The appellant herein is the eighth accused and he was remanded to judicial custody on 20.05.2017.

3. The learned counsel appearing for the appellant submitted that the author of the First Information Report in this case is one of the injured eye witnesses and he has not attributed anything about the appellant herein and only based on the confession given by the first accused, the appellant has been implicated in this case and even the name of the appellant is not found in the First Information Report. It is further submitted that except the confession given by the first accused, absolutely there is no allegation against the appellant and he is in custody nearly for 70 days and hence, he prays for bail.

4. The learned Additional Public Prosecutor submitted that the appellant is also involved in the occurrence and based on the confession given by the first accused, the present appellant has been implicated in this case and based on the disclosure statement, weapon was also recovered and the appellant is having previous antecedents and hence opposed the bail petition.

5. I have considered the rival submissions made on either side and perused the records carefully.

6. From the perusal of the material available on record it could be seen that the First Information Report was given by one of the injured eye witnesses and no overtact has been attributed against the appellant and only based on the confession of the first accused, the appellant herein has been implicated in this case.

7. Considering the facts and circumstances of the case and also considering the fact that the appellant is in custody for more than 70 days, this Court is inclined to allow the appeal and grant bail to the appellant.

8. Accordingly the Criminal appeal is allowed and the order dated 14.07.2017 passed in CrI.M.P.No.1752 of 2017 by the II Additional District and Sessions Court - cum - PCR Court, Tirunelveli, is set aside and the appellant is ordered to be enlarged on bail subject to the following conditions:-

(i) The appellant shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned II Additional District and Sessions Judge cum PCR Court, Tirunelveli,



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(i) the appellant shall appear before the respondent Police daily at 10.30 am until further orders.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar.

To

1. The II Additional District Judge,
II Additional District and Sessions Court - cum - PCR Court,
Tirunelveli.
- 2.The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Superintendent,
Central Jail, Palayamkottai.

+1CC to Mr.P.Samuel Gunasingh, Advocate, SR.No. 27589

CRL.A(MD)No.284 of 2017

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AM/SV AAM/SAR 3/02.08.2017/3P/6C