



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2017

CORAM:

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THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

Cr1.A(MD)No.314 of 2017

Kannan @ Suresh Kannan

: Appellant/Petitioner/
Accused No.6

Vs.

State

The Deputy Superintendent of Police,
OCU, CBCID, Tirunelveli City,
Thoothukudi CBCID Police Station.
(Crime No.2 of 2015)

: Respondent/Complainant

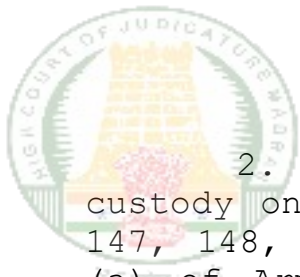
Prayer: Criminal Appeal filed under Section 14 A (2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 as amended by Act 1/2016, praying to call for the records relating to the order dated 26.05.2017 made in Cr.M.P.No.1797 of 2017 on the file of the Learned II Additional Sessions Judge, Tirunelveli and to set aside the same as arbitrary and consequently to release the appellant on bail on connection with the FIR in Crime No.2 of 2015 on the file of the Respondent Police.

For Appellant : Mr.G.Gopala Krishna Lakshmana Raju
Senior Counsel

For Respondent : Mr.A.Ramar
Additional Public Prosecutor(Cr1. Side)

JUDGEMENT

This Criminal Appeal has been filed praying to call for the records relating to the order dated 26.05.2017 made in Cr.M.P.No.1797 of 2017, on the file of the Learned II Additional Sessions Judge, Tirunelveli and to set aside the same as arbitrary and consequently to release the appellant on bail in connection with FIR in Crime No.2 of 2015, on the file of the Respondent Police.



2. The Appellant, who was arrested and remanded to judicial custody on 30.11.2016, for the offences punishable under Sections 147, 148, 109, 120(B), 302, r/w 149 of IPC., and Section 25(1-B) (a) of Arms Act r/w Section 3(2)(V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, r/w. Section 149 IPC., in Crime No.2 of 2015, on the file of the respondent police, seek appeal bail.

3. The learned Senior Counsel appearing for the appellant states that the name of the appellant does not find a place in the FIR and the defacto complainant in this case is the father of the deceased, who is also an eye-witness. As per the FIR, only two named accused, who are arrayed as A1 and A2, said to have attacked the deceased with aruval on the neck of the deceased and also the head of the deceased and 2 other unnamed accused said to have attacked the deceased also. The name of the appellant find a place as an accused only in the charge sheet alone. The appellant was arrested and he is in custody from 30.11.2016 onwards.

4. The learned Additional Public Prosecutor appearing for the respondent, on instructions, would submit that FIR was registered against 2 named accused and 2 unnamed accused and during investigation, on the confession of A1, there are totally 10 accused in this case. The charge sheet was laid and is pending as P.R.C.No.8 of 2015 before the learned Judicial Magistrate No.I, Kovilpatti, in which the appellant is arrayed as A6. The overt act attributed against the appellant herein is that at the first instance, he said to have cut the neck of the deceased with aruval and thereafter, the other accused said to have attacked with aruval on the deceased. The appellant is having 15 previous cases. All the accused in this case were released on bail except this appellant and NBW was issued against A4 by the learned Judicial Magistrate No.I, Kovilpatti in pending P.R.C.No.8 of 2015. The appellant herein is shown as absconding accused in the said P.R.C.No.8 of 2015. If the appellant is released on bail, the committal proceedings would be delayed and the appellant will abscond, since he is having several cases. He also submitted that the earlier bail application moved by the appellant in CrI.O.P. (MD)No.6256 of 2017 was dismissed by this Court, as per order, dated 05.06.2017.

5. Considering the above facts and circumstances of the case and also considering the fact that the case is pending as P.R.C.No.8 of 2015 before the learned Judicial Magistrate No.I, Kovilpatti and the same is in committal stage, this Court is not inclined to grant the relief, as sought for by the appellant.



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6. In the result, this Criminal Appeal is dismissed. The concerned Judicial Magistrate is directed to commit the case without any delay, since the appellant is in custody for more than eight months.

Sd/-
Assistant Registrar(Writs)

/True Copy/

Sub-Assistant Registrar

To

- 1.The II Additional Sessions Judge,
(PCR Court)
Tirunelveli.
- 2.The Deputy Superintendent of Police,
OCU, CBCID, Tirunelveli City,
Thoothukudi CBCIS Police Station,
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Judicial Magistrate No.1,
Kovilpatti, Tuticorin District

MPK
RL/5C/2P/SKN/RSK/SAR1/30/8/2017

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