



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2017

CORAM:

THE HONOURABLE MR. JUSTICE A.M.BASHEER AHAMED

CrI.A.(MD)No.436 of 2017

WEB COPY

Ganesan

... Appellant/Petitioner/Accused No.1

Vs.

1.The State Rep.by

The Inspector of Police,
Melapalayam Police Station,
Tirunelveli City.

(Crime No.258 of 2014) ... Respondent/Respondent/Complainant

PRAYER: The Petition filed under Section 14-A(2) of SC / ST Act 1989 as amended by Act 1/2016, to call for the entire records relating to the order dated 05.10.2017 made in Cr.M.P.No.2686 of 2017 in S.C.No.166 of 2016 on the file of the learned II Additional District & Sessions Judge, Tirunelveli and to set aside the same and consequently to release the appellant on bail in connection with the FIR in Crime No.258 of 2014 on the file of the respondent Police.

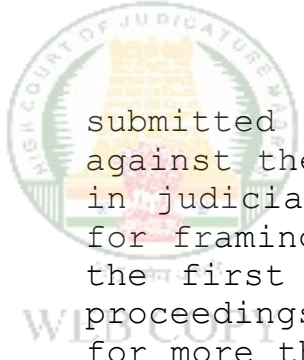
For Appellant : Mr.M.S.Jeyakarthik
For Respondent : Mr.T.Mohan, APP

JUDGMENT

The appellant, who was arrested on 11.09.2017 under the Non-Bailable Warrant, which was issued on 20.03.2017, for the offence punishable under Sections 147, 294(b), 323, 324 & 506(ii) of IPC r/w Sections 3 (1) (r)(s), 3 (iii) (Va) of SC/ST (POA) Act, Amendment ordinance, 2014 in Crime No.258 of 2014 on the file of the respondent Police, seeks bail.

2.The case of the prosecution is that the defacto complainant is the taxi driver and when he was crossing the occurrence place, the accused persons stood in the middle of the road. Hence, the defacto complainant, questioned them, therefore, the wordy altercation arose between them. Consequently, accused persons abused the defacto complainant by using filthy language in order to defame the community name of the defacto complainant. Further, the accused persons attacked the defacto complainant by using wooden log and they caused injuries to him. Further, the accused persons caused serious life threat to the defacto complainant with dire consequences.

3.The learned Additional Public Prosecutor appearing for the respondents Police on instruction would submit that totally there are 6 accused in S.C.No.166 of 2016 pending on the file of the II Additional District & Sessions Judge, Tirunelveli and the appellant herein is arrayed as A1 in the said case. He further



submitted that since A1 was absent on 20.03.2017, NBW was issued against the appellant and was executed on 11.09.2017 and now he is in judicial custody. He also submitted that now case is posted for framing charges, on 08.11.2017 and the said NBW was issued for the first time against the appellant in the said Sessions case proceedings. He also submitted that the appellant was absconding for more than 5 months without any sufficient reasons.

4.The learned counsel for the appellant submitted that due to the physical illness of the appellant, on 20.03.2017, he could not be able to appear before the above said Court. Hence, Non-Bailable Warrant was issued against the appellant on 20.03.2017 and executed on 11.09.2017 and now the appellant is in judicial custody. The appellant has not chosen to produce any proper document to show that why he could not appear before the concerned Court on 20.03.2017 and subsequent dates.

5.Considering the facts and circumstances of the case and also considering the conduct of the appellant, who is absconding for more than 5 months in this Sessions proceedings, this Court is inclined to grant bail on condition that the appellant is directed to pay a sum of Rs.1,500/- to the District Legal Service Authority, Tirunelveli. Accordingly, the Criminal appeal is allowed and the appellant is ordered to be enlarged on bail subject to the following conditions:-

[a] 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 & Sessions Judge, Tirunelveli.

[b]the appellant shall report before the learned II Additional District & Sessions Judge, Tirunelveli, daily at 10.30 a.m., until further orders.

[c]the appellant is directed to pay a sum of Rs.1,500 to the District Legal Service Authority, Tirunelveli.

[d] the appellant shall not tamper with evidence or witness either during investigation or trial.

[e] the appellants shall not abscond either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the appellants in accordance with law, as if the



conditions have been imposed and the appellants released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

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Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

- 1.State Rep. by
The Inspector of Police,
Melapalayam Police Station,
Tirunelveli City.
- 2.The II Additional District & Sessions Judge,
Tirunelveli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Secretay,
District Legal Services Authority, Tirunelveli.
- 5.The Superintendent,
Central Prison,
Palayamkottai,
Tirunelveli District.

+1cc to M/S.M.S.Jeyakarthik, Advocate SR.No. 33571

Cr1.A.(MD)No.436 of 2017

gns
JM/RSK/SAR 2/01.11.2017/3P/7C