



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.12.2017

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE A.M.BASHEER AHAMED

Cr1.A.(MD)No.495 of 2017

K.Udayakumar

... Appellant

Vs.

1.The Deputy Superintendent of Police,
Virudhunagar District.

2.State Rep.by
The Inspector of Police,
Vachchakarapatti Police Station,
Virudhunagar District.

3.Baskaran

... Respondents

PRAYER: The Criminal Appeal filed under Section 14A-2 of SC / ST Amendment Act, 2015, to set aside the order dated 05.12.2017 passed in Cr.M.P.No.4094 of 2017 on the file of the Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur and enlarge the appellant on bail in connection with the case in Crime No.471 of 2017 on the file of the 2nd respondent Police.

For Appellant : Mr.R.C.Paulkanagaraj

For Respondent : Mr.C.Mayilvahana Rajendran, APP

JUDGMENT

The Criminal Appeal is filed to set aside the order dated 05.12.2017 passed in Cr.M.P.No.4094 of 2017 by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur and to enlarge the appellant on bail in connection with the case in Crime No.471 of 2017 on the file of the 2nd respondent Police.

2.The case of the prosecution is that the deceased persons in this case, while they have involved in sand theft, at that time, the Police went there and tried to arrest them. However, when the deceased tried to escape at the hands of the respondent Police, they sustained injury due to electric fencing made by the accused herein. The accused persons, without obtaining licence, have fenced their land and due to which, the injured persons died. Hence, a case in Crime No.471 of 2017 is filed under Sections 302, 201 IPC and Section 3(1)(r), 3(1)(s) and 3(2)(v) of SC / ST (POA) Amendment Act, 2015 & 304 and 201 IPC r/w Section 3(1)(r), 3(1)(s) and 3(2)(v) of SC / ST (POA) Amendment Act, 2015.



3.The learned counsel for the appellant would submit that the deceased persons died while they were in police custody and hence, the wife of the deceased filed a Writ petition in W.P.(MD)No.22069 of 2017 and in order to escape from the said allegations, a false case has been foisted against the appellant.

4.The learned Additional Public Prosecutor appearing for the respondents 1 and 2 would submit that totally there are 2 accused and the appellant herein is arrayed as A2 in this case and A1 is the father of the appellant herein. He also submitted that second postmortem report was conducted and report is awaited and investigation is also pending. He further submitted that as the allegations regarding custodial death made against the police officials, RDO enquiry was ordered and enquiry is pending.

5.Considering the facts and circumstances of the case and also gravity of charges levelled against the appellant and also the second postmortem report and RDO report are awaited, this Court is not inclined to grant bail at this stage. Accordingly, this Criminal Appeal is dismissed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub-Assistant Registrar

To

1.The Principal District and Sessions Judge,
Virudhunagar District at Srivilliputtur.

2.The Deputy Superintendent of Police,
Virudhunagar District.

3.The Inspector of Police,
Vachchakarapatti Police Station,
Virudhunagar District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai

+One cc to Mr.R.C.Paul Kanagaraj, Advocate, SR.No.92452

nbj

RL/6C/2P/KKR/SAR4/27/12/2017

CrI.A.(MD)No.495 of 2017