

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2018

CORAM

THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

Crl.A.No.105 of 2018

Senkathiravan

... Appellant/Accused No 2

Vs.

State rep. by

The Inspector of Police,
Thirubuvanai Police Station,
Puducherry.

investigated by CBCID Police Station,
Puducherry.

... Respondent/ Complainant

Prayer: Criminal Appeal is filed under Section 14(A)(2) of SC/ST Act, 1989, against the order dated 30.01.2018 passed by the learned Special Judge, II Additional Sessions Judge, Puducherry, in Crl.M.P.No.3 of 2018. in SC No.33 of 2017

For Appellant : Mr.S.Gopinath

For Respondent : Mr.D.Bharatha Chakravarthi
Public Prosecutor (Puducherry)

JUDGMENT

This appeal has been filed seeking to set aside the order passed by the learned Special Judge [under Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989], II Additional Sessions Judge, Puducherry, in Crl.M.P.No.3 of 2018 in S.C.No.33 of 2017 dated 30.01.2018 and to enlarge the appellant on bail.

2.The petitioner in the said S.C.No.33 of 2017 is A2. He had been arrested for the involvement in the said case, where charge sheet has been laid against the petitioner and other accused persons for the offences punishable under Sections 143, 120B, 109, 449, 427 and 302 of IPC and Sections 3, 4, 5 and 6 of the Explosive Substances Act, 1909 and also, under Section 3(2) (v) of SC/ST (Prevention of Atrocities) Act.

3.The petitioner had been arrested on 25.04.2017 and since then he had been inside as a pre-trial prisoner. Hence, he moved a bail application before the Court below in CrI.M.P.No.3 of 2018 and the same was dismissed on 30.01.2018. As against which, the present appeal has been filed.

4.I have heard Mr.S.Gopinath, learned counsel appearing for the appellant and Mr.D.Bharatha Chakravarthi, learned Public Prosecutor (Puducherry) appearing for the respondent/State.

5.The learned counsel appearing for the appellant would submit that, in this case, this Court, by order dated 12.12.2018 has granted bail by allowing the Appeal filed by A1 and A8 in CrI.A.Nos.72 and 81 of 2018. He would further submit that the appellant is also innocent and has not involved in the crime.

6.The learned counsel appearing for the appellant would also submit that, since his son one Master S.Sudhir aged 4 ½ years already suffered with some neuro disease, for which, he has to take continuous treatment at hospitals and for the past more than one year, such a treatment has been given to the son of the appellant. He has also produced certain medical documents to establish the fact that the son of the appellant has taken treatment for neuro disease and the latest medical reports dated 14.02.2018 also was filed by the learned counsel appearing for the appellant.

7.However, the learned Public Prosecutor (Puducherry) appearing for the respondent/State, by relying upon the averments made in the counter filed by the respondent dated 21.02.2018, would submit that, the appellant has already involved in 23 cases and therefore, since he is a chronic offender in that locality, if he is let off on bail, it will create unnecessary problem in that area and he would be a root cause for the deterioration of law and order in that area.

8.The learned Public Prosecutor would also submit that on the ground of treatment to be given to the son of the appellant, he had already been permitted to go on parole for two days to take care of his son and that kind of arrangement can be made, if at all, any urgency is made out to see the son of the appellant on medical ground.

9.I have considered the submissions made by both sides.

10.The learned counsel appearing for the appellant insofar as the past involvement in number of cases are concerned, would submit that, out of 23 cases, the appellant has already been

acquitted in 20 cases and those cases are not pending. With regard to the remaining three cases i.e., in Crime No.70 of 2007, Crime No.86 of 2009 and Crime No.92 of 2016 are concerned, the offences punishable in that Crime Numbers are under Sections 294, 323 and 506(i) of IPC and 294B and 186 of IPC and in respect of Crime No.70 of 2017, it is for the offence under Section 107 of CrPC.

11. In view of the continuous involvement in crime, whether it is a minor offence or major offence, on the part of the appellant, it would clearly establish that he is a chronic trouble maker in that locality and that is the reason why number of cases have been filed against him, of course, three of such cases are pending against him and therefore, on that score, this Court is actually not inclined to entertain this appeal by enlarging the appellant on bail.

12. However, this Court, on seeing the medical reports pertaining to 4 ½ years old child of the appellant, is of the view that, such a small child must necessarily be given a best medical treatment and since the child is to recover from the disease, for which, continuous medical attention should be given, the appellant, being the father of the child, necessarily has to play a role in protecting his child from the chronic neuro disease.

13. Viewing from that angle only, on sympathetic ground towards the innocent child of 4 ½ years old and to save and protect his life, this Court is inclined to pass the following orders:

"1. The appellant shall be enlarged on bail on his executing a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) with two sureties, out of which, one shall be a Government surety, for a likesum to the satisfaction of the learned Special Judge, II Additional Sessions Judge, Puducherry, within a period of two weeks.

2. The appellant shall report before the respondent Police, daily at 10.30 a.m. and 05.00 p.m., until further orders.

14. It is made clear that during the bail period, if the appellant fails to comply with the conditions as mentioned above, or if he is involved in any other crime, the same can be brought to the notice of this Court and it would entail the prosecution to seek for cancellation of bail.

With the above directions and conditions, this Criminal Appeal is allowed to the terms indicated above.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mps

To

1.The Special Judge,
II Additional Sessions Judge,
Puducherry.

2.The Inspector of Police,
Thirubuvanai Police Station,
Puducherry.

3.The CBCID Police,
Puducherry.

+lcc to Mr.S.Gopinath, Advocate, S.R.No.13092

RRK(21/02/2018)

Cr1.A.No.105 of 2018

सत्यमेव जयते

WEB COPY