

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2018

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Criminal Appeal No.556 of 2018

S.Yuvaraj

... Appellant/Ist Accused

Versus

State rep. By its

Additional Superintendent of Police,

SID, CBCID,

Namakkal,

Namakkal District.

Crime No.2/2015

... Respondent/Complainant

Criminal Appeal filed under Sections 14-A of S.C. S.T.ACT (Prevention of Atrocities Amendment ACT 2015 r/w 374(3) of the Code of Criminal Procedure, to set aside the order passed in C.M.P.No.285 of 2018 in S.C.No.78 of 2016 on the file Learned Principle Sessions Judge Namakkal dismissing the bail petition for the alleged offences under Sections 120(b), 364, 34 r/w 109 IPC, 384, 465, 471 r/w 468, 302, 201, 212, 216 and 3(2) (V) of SC/ST Act.

For Appellant : Mr.A.Ashvathamam

For Respondent : Ms. Thankira

Government Advocate (Crl.Side)

JUDGMENT

This appeal has been filed by the appellant to set aside the order passed in C.M.P.No.285 of 2018 in S.C.No.78 of 2016 on the file Learned Principle Sessions Judge Namakkal dismissing the relief of bail sought for by the appellant in connection with the case in Crime No. 2 of 2015 for the alleged offences punishable under Sections 120 (b), 364, 34 r/w 109 IPC, 384, 465, 471 r/w 468, 302, 201, 212, 216 and 3(2) (V) of SC/ST Act.

2. The case of the appellant is that he was falsely implicated as first accused in the Crime No. 2 of 2015 on the file of the respondent police for the alleged offences under Sections 120(b), 364, 34 r/w 109 IPC, 384, 465, 471 r/w 468, 302, 201, 212, 216 and 3(2) (V) of SC/ST Act. According to the appellant, after registration of the case, he surrendered before the respondent police on 11.10.2015. After remaining in custody for a period of about one year, the appellant filed a bail

application before this Court in Crl.O.P.NO.8350 of 2016. After elaborate consideration, this court granted bail to the appellant on certain conditions. Aggrieved by the same, the prosecution has preferred an appeal before the Honourable Apex Court in C.A.No.1757 of 2017 and the Honourable Apex Court allowed the appeal by an order dated 10.10.2017, the operative portion of the same reads as follows:-

".....We do not consider it necessary for the purpose of this order to describe the entire circumstances which warranted the custody of the respondent.

Suffice it to say that it was inexpedient in the interest of justice for the High Court to have released the respondent on bail in these circumstances at that stage.

We therefore, allow this appeal, and set aside the impugned order passed by the High Court, and direct that the respondent-accused shall remain in custody as a pre-trial prisoner till such time as he is released by an order of a competent Court.

We further direct that trial court shall decide the matter on its own merits as expeditiously as possible in any case not later than 18 months from the date of copy of this order is produced before it."

3. Pursuant to the order of the Honourable Supreme Court, the appellant filed several petitions before the lower Court and some petitions were dismissed against which he preferred an appeal for furnishing some documents. The appellant also filed bail application in C.M.P.No.285 of 2018 in S.C.No.78 of 2018 and same was dismissed on 05.03.2018 by the learned Principle Sessions Judge, Namakkal against which the present appeal is filed by the appellant.

4. The learned counsel for the appellant would submit that initially the appellant implicated for major offences under Section 302 of IPC and Honourable Apex Court also passed order that the appellant to remain in custody as a pre-trial prisoner until an order is passed by a competent Court. The appellant filed the bail application before the lower Court. However, the lower Court dismissed the bail application without assigning any valuable reasons. The lower Court rejected the bail mainly on the ground that the appellant repeatedly filed petitions before the Sessions Court in order to drag the proceedings and thereafter on 19.12.2017 the appellant misbehaved with the Judicial Officers and refused go out the witness box. Taking note to the above alleged conduct of the appellant, the bail petition was dismissed. According to the counsel for the appellant, the appellant is in custody for the past three years and therefore, he was constrained to file petitions to redress

his grievance which cannot be said to be an adverse conduct.

5. The learned Government Advocate (Crl. Side) appearing for the state would submit that though initially this Court granted bail to the appellant in Crl.O.P. No.8350 of 2016. subsequently, the respondent/state filed an appeal before the Honourable Apex Court. The Honourable Apex Court allowed the appeal and directed the lower Court to complete the trial within a period of 18 months and that order was passed on 10th October 2017. Even today the Sessions Court is unable to complete the trial due to attitude of the appellant and his non cooperation. Further the appellant misbehaved with the Session Judge and portrayed a rigid attitude. Apart from the above case, there are nine previous cases pending in different Courts in different stage against the appellant. The appellant is Founder of Theeran Chinnamalai Gounder Peravai. The accused persons and other accused are followers and they had very strong affinity towards their caste, which has given rise to the instant murder in this case. Therefore, if the appellant is released on bail, there is every likelihood of a communal clash in the locality and therefore, he vehemently opposed for grant of bail.

6. Undisputed fact that is that the appellant is one of the accused in Crime No. 2 of 2015 for the offences punishable under Sections 120(b), 364, 34 r/w 109 IPC, 384, 465, 471 r/w 468, 302, 201, 212, 216 and 3(2) (V) of SC/ST Act. Subsequently, this Court granted bail in Crl.O.P.No.8350 of 2016. Thereafter, the bail was cancelled by the Honourable Apex Court in C.A.No.1757 of 2017. After cancellation of bail, the relief of bail sought for by the appellant was dismissed by the Sessions Court on the ground that trial is pending and that the appellant is not extending his cooperation. On perusal of the entire records, it could be seen that the appellant is the Founder President of Theeran Chinnamalai Gounder Peravai with followers having affinity to the a particular Caste. It is alleged that the Caste to which the appellant belonged to had opposed inter-caste marriage and love marriage and targeted those indulged in such ceremonies. It is also stated that there are several cases filed and pending against the appellant and they are under various stages of investigation and/or trial. Above all, the Sessions Judge recorded a specific finding that the appellant is adamant in character and he misbehaved during the course of trial. and on 19.12.2017, even after the Sessions Case was adjourned, the appellant misbehaved with Sessions Judge and refused to get down from the witness box. Above all, the appellant raised slogans against the Judicial Officers.

7. Above all, it is seen that the trial in the Sessions Case is in progress and it is being adjourned on a day to day basis. Even otherwise, the appellant is facing trial in many other criminal cases. Having regard to the above facts, the

learned Sessions Judge has rightly rejected his bail petition. I am not inclined to interfere with the said order passed by the court below.

8. In the result, Criminal Appeal is dismissed.

Sd/-
Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

vsg1/vrc

To

- 1.The learned Principle Sessions Judge,
Namakkal.
- 2.The Additional Superintendent of Police,
SID, CBCID,
Namakkal,
Namakkal District.
- 3.The Public Prosecutor,
High Court, Madras.
- 4.The Section Officer, Criminal Section,
High Court, Madras.
- 5.The Chief Judicial Magistrate,
Namakkal.
- 6.The Superintendent,
Central Jail, Trichy.
- 7.The District Collector,
Namakkal.
- 8.The Director General of Police,
Mylapore, Chennai.

+1cc to Mr.A.Ashvathamam, Advocate, S.R.No.63603

Cr1.A.No.556 of 2018

AK(CO)

rrs 01/10/2018