



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Order Reserved on: 26.02.2018

Order pronounced on :27.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

CRL.O.P.(MD)No.2606 of 2018

WEB COPY

Senthilkumar @ Dhadha Senthil

... Petitioner/Accused

-Vs-

1. The Assistant Commissioner of Police,
Palakarai, Trichy.

2. The Inspector of Police,
Kottai Police Station,
Trichy District.
(Cr.No.721/2017)

3.Chandrakumar

... Respondents/Complainants

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to direct the learned 1st Additional District Judge (Special Court for PCR Cases), Trichy to accept the surrender of the petitioner and consider the bail application of the petitioner on the very same day in Cr.No.721 of 2017 on the file of the second respondent Police.

For Petitioners

: Mr.T.A.Punithan

For R-1 & R-2

: Mr.A.P.G.Ohm Chairma Prabhu
Govt. Advocate (Crl.Side)

O R D E R

This Criminal Original petition has been filed under Section 482 of Criminal Procedure Code, to direct the learned 1st Additional District Judge (Special Court for PCR Cases), Trichy to accept the surrender of the petitioner and consider the bail application on the very same day in Cr.No.721 of 2017 on the file of the second respondent Police.

2.Heard both sides.

3.The learned counsel for the petitioner has submitted that the second respondent has registered a case in Cr.No.721 of 2017 under Sections 341, 147, 148, 302, 149, 120(b), 34 of I.P.C r/w 3(i)(r) (s), 3(2) (v) of Scheduled Castes and Scheduled Tribes



(Prevention of Atrocities) Act and subsequently altered into under Sections 341, 147, 148, 302 I.P.C r/w 3(i)(r)(s), 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (hereinafter referred to as Act). He further submitted that there are totally 22 accused and the name of the petitioner is not found in F.I.R. He further submitted that already 15 accused were arrested and remanded to judicial custody and later on, they were released on bail. He further submitted that four accused have filed Crl.O.P.(MD).No.12914 of 2017 before this Court seeking direction, in which, this Court has passed order on 27.09.2017, directing the First Additional District Judge (Special Court for PCR Cases), Trichy to accept the surrender of the petitioners and consider their bail application and dispose of the same on merits on the same day.

4.The learned Government Advocate (Crl.Side) has submitted that it is a double murder case and the deceased persons belong to scheduled caste. He further submitted that in view of Section 15-A of the Act, the victim or his dependent is entitled to be heard at any proceedings under the aforesaid Act in respect of bail, discharge or release etc., and hence, usual directions cannot be issued routinely in this case.

5.Considering the Section 15-A of the Act, the Honourable Mr.Justice S.S.SUNDAR in Crl.O.P.(MD).No.15701 of 2017 has passed order that in view of amendments made in the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, usual directions cannot be issued routinely in all cases and after observing so, His Lordship has directed the accused persons to surrender before the trial court and on such surrender, the trial court has to consider the bail application on merits and dispose of the same in accordance with law, after issuing notice to the defacto complainant/victim under Section 15-A of the Act. In Crl.O.P.(MD).No.17528 of 2017, the Honourable Mr.Justice Vaidyanathan also has passed similar kind of order. But the Honourable Mr.Justice M.V.Muralidaran in Crl.O.P.(MD).No.12914 of 2017, by his order dated 27.09.2017, has directed the trial court to consider the bail application and dispose of the same on merits and in accordance with law on the same day. In the said order, Section 15-A of the Act was not dealt with.

6.This is the case of double murder and the deceased are belong to scheduled caste. As per Section 15-A of the Act, the victim or his dependent is entitled to be heard at any proceedings under the aforesaid Act in respect of bail, discharge or release etc., Hence, this Court is of the view that it would not be proper to direct the trial court to consider the bail application and dispose of the same on merit on the same day.

7.Therefore, the petitioner is directed to surrender and file bail application before the trial court within a period of two



weeks from the date of receipt of copy of this order and on such surrender and filing of the bail application, the learned Special Judge concerned shall deal with the matter in accordance with law, after issuing notice to the victim/defacto complainant, under Section 15-A of the Act.

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8. With the aforesaid observation, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The 1st Additional District Judge,
(Special Court for PCR Cases),
Trichy.
2. The Assistant Commissioner of Police,
Palakarai, Trichy.
3. The Inspector of Police,
Kottai Police Station,
Trichy District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr. T.A. Punithan, Advocate SR.No.51748

VS

VB/SKN/RSK/SAR3/07/03/2018/3P/6C

order made in
CRL.O.P. (MD) No.2606 of 2018
27.02.2018