



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 09.02.2018

Delivered on : 20.02.2018

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

CrI.O.P.(MD)No.308 of 2018

Muthukumar ... Petitioner/Defacto Complainant
Vs.

1. Viswanathan
2. The Inspector of Police,
Manamelkudi Police Station,
Pudukkottai District.
(Crime No.243/2017

... Respondents/Complainant

PRAYER: Criminal Original Petition is filed under Section 439(2) r/w. 482 of the Code of Criminal Procedure, to cancel the bail granted to the first respondent by the learned Principal Sessions Judge, Pudukkottai, vide order dated 23.11.2017, made in Cr.M.P.No.1898 of 2017.

For Petitioner : Mr.A.Jayaramachandran

For R1 : Mr.T.Lenin Kumar

For R2 : Mr.A.Robinson
Government Advocate
(Criminal side)

ORDER

The petitioner herein is the de-facto complainant in Crime No.243 of 2017 on the file of the second respondent police.

2.The first respondent in this petition is A5 in the abovesaid crime number. Now, the petitioner filed this Criminal Original Petition seeking to cancel the bail granted in favour of the first respondent on 23.11.2017.

3.The first and foremost contention raised by the learned counsel appearing for the petitioner is that according to Section 15-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 [hereinafter referred to as 'the SC/ST (POA) Act'], the Court is having the duty to send a notice to the victim before granting bail, but the learned Principal Sessions Judge, Pudukkottai, without sending any notice to the victim, granted bail in favour of the first respondent, which is nothing but illegal.



4. On the other hand, the learned counsel appearing for the first respondent submitted that it is the duty cast upon the Special Public Prosecutor or the concerned official, who registered a case to intimate the proceedings to the victim and not the Court, in which, the order of bail was passed.

5. Now, considering the facts of the case, the offences under Sections 147, 341, 323 and 506(i) IPC r/w. Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SC/ST (POA) Act have been registered against the first respondent. The first respondent herein/5th accused in this case was in judicial custody from 15.11.2017 to 23.11.2017 and on 23.11.2017, he was granted bail.

6. Now, on considering the submissions made by the learned counsel on either side, it is useful to refer Section 15-A of the SC/ST (POA) Act. The relevant portion of the said Section reads as follows:-

'15-A. Rights of victims and witnesses.-(1)

It shall be the duty and responsibility of the State to make arrangements for the protection of victims, their dependents, and witnesses against any kind of intimidation or coercion or inducement or violence or threats of violence.

(2) A victim shall be treated with fairness, respect and dignity and with due regard to any special need that arises because of the victim's age or gender or educational disadvantage or poverty.

(3) A victim or his dependent shall have the right to reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding and the Special Public Prosecutor or the State Government shall inform the victim about any proceedings under this Act.

(4) A victim or his dependent shall have the right to apply to the Special Court or the Exclusive Special Court, as the case may be, to summon parties for production of any documents or material, witnesses or examine the persons present.

(5) A victim or his dependent shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing. '



7. So, according to the said provision, the right is available to the victim for getting timely notice of any Court proceedings including any bail proceeding. Further, the learned Special Public Prosecutor or the State Government shall inform the victim about any proceedings. In this case, since the first respondent is in judicial custody for more than one week, it is on the part of the learned Special Public Prosecutor to inform the same to the victim. Even though the said provision is violated by those officers, the *lacuna* on the part of the abovesaid officers, there is no mandate under the said provision that the Court has to issue notice, hear the victim and then pass appropriate orders on the bail petition. On a careful understanding of the said provision, it clearly discloses that if the victim wants to contest the proceedings, then the Court has to provide an opportunity to the victim and then proceed and pass appropriate orders in this regard.

8. In the abovesaid facts and circumstances, the bail has already been granted by the Trial Court considering the facts and gravity of the offence and since then the first respondent has not violated any of the conditions. When such being the case, I do not find any strong reason to set aside the order passed by the Trial Court and cancel the bail. Hence, this Petition deserves to be dismissed. Accordingly, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar(protocol)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Sessions Judge,
Pudukkottai.
2. The Inspector of Police,
Manamelkudi Police Station,
Pudukkottai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.T.Lenin Kumar, Advocate Sr.No.49953

+1cc to Mr.A.Jayaramachandran, Advocate Sr.No.50035

SMN2

VP/CVC/SAR1/01-03.2018/3P/6C

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