



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the Eighteenth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.17136 and 17137 of 2017

V.P.PANDI ALIAS ATTACK PANDI

... PETITIONER/ACCUSED No.1
IN BOTH THE PETITIONS

Vs

STATE REP.BY,
THE INSPECTOR OF POLICE
CBCID, MADURAI DISTRICT,
CR NO.11/2015
(ORIGINALLY REGISTERED AT
C2,SUBRAMANİYAPURAM POLICE STATION(L&O)
MADURAI CITY MADURAI
IN CRIME NO. 68/2013.

... RESPONDENT/COMPLAINANT
IN CRL OP(MD)No.17136/17

STATE REP.BY,
THE INSPECTOR OF POLICE,
K.PUDUR POLICE STATION,
MADURAI CITY, MADURAI.
IN CRIME NO.1017/2015

... RESPONDENT/COMPLAINANT
IN CRL OP(MD)No.17137/17

For Petitioner : M/S.K.GOPALAKRISHNA LAXMANA RAJA, Senior Counsel
for M/S.R.VENKATESWARAN, Advocate

For Respondent : M/S.K.CHELLAPANDIAN, Additional Advocate General
Asst.by M/S.C.RAMESH, Additional Public Prosecutor

PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

Reserved on : 11.01.2018
Delivered on : 18.01.2018

The petitioner in Crl.O.P.(MD)No.17136 of 2017 is the 1st Accused in Crime No.68 of 2013 on the file of the respondent/Police and later on transferred to CBCID in Crime No.11 of 2015, for the offences under Sections 147, 148, 341, 342, 212, 216, 302, 120(B) and 109 r/w. 149 and 34 IPC and Section 3(1) of TNPPDL Act,
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culminated in PRC.No.47 of 2015 on the file of the Judicial Magistrate Court No.IV, Madurai, seeks bail.

2.The very same accused is the petitioner in CrI.O.P.(MD) No.17137 of 2017, who has been arrayed as 7th Accused in Crime No.1017 of 2015 on the file of the respondent/Police for the offences under Sections 341, 294(b), 307, 120(B) and 506(ii) r/w. 109 IPC r/w. 149 and 34 IPC, culminated in SC.No.456 of 2016, on the file of the VI Additional District and Sessions Court, Madurai, seeks bail.

3.Heard Mr.K.Gopalakrishna Laxmana Raja, learned Senior Counsel for Mr.R.Venkateswaran, learned counsel for the petitioner and Mr.K.Chellapandian, learned Additional Advocate General assisted by Mr.C.Ramesh, learned Additional Public Prosecutor appearing for the State.

4.The case of the prosecution in Crime No.11 of 2015 is that the petitioner herein and his associates waylaid the car of one Pottu Suresh near Murugan Kovil Road Junction and murdered him. The deceased Pottu Suresh was the Associate of this petitioner/accused and later, parted away and developed animosity leading to murder. After committing the murder of Pottu Suresh, this petitioner went underground and he was secured by the police after 2 ½ years and remanded to judicial custody. The petitioner has also been arrayed as Accused No.7 in Crime No.1017 of 2015 in order to attempt murder of one Ramakrishnan, who is also one of his old Associates and also a listed witness in Crime No.11 of 2015. CrI.O.P.(MD)No.17137 of 2017 has been filed seeking bail of the petitioner in the said case.

5.The learned Senior Counsel appearing for the petitioner submitted that the petitioner is innocent and he has not committed any offence whatsoever as alleged by the prosecution and he has been falsely implicated in these cases due to political rivalry. The learned Senior Counsel further submitted that the allegations and materials projected by the prosecution are feeble and not enough to connect the petitioner to the crimes and admittedly, the deceased had involved in two murder cases and had earned more enemies including the police officials, by his various influential activities. He further added that the petitioner had left Madurai well in advance due to fastening of false cases and life threat. The learned Senior Counsel further submitted that the respondent/complainant objects the petitioner's bail petitions citing the previous case and also yet another case registered with the Madurai K.Pudur Police Station, in Crime No.1017 of 2015, when he has been in jail in this case with similar nature of allegation of conspiracy so as to thwart the petitioner's claim of bail. The learned Senior Counsel also submitted that the petitioner is having two school going children and aged ailing mother and having permanent residence and valuable assets on his own and on his family, he is an income tax assessee and held reputed post in a political party and in a Government Agency and he undertakes that he



will not escape from the clutches of law and fully co-operate with the trial and is ready and willing to abide by any conditions being imposed by this Court and prays for bail in favour of the petitioner.

6.The learned Additional Advocate General submitted that the petitioner was a history sheeted rowdy and involved in as many as in 20 other cases. Such cases related to both larger and lesser offences under the Indian Penal Code, the Arms Act and also other enactments. The petitioner, who is involved in the occurrence on 31.01.2013 in the instant case had gone into hiding and subsequent to the declaration of him as proclaimed offender, his properties have also been attached. The petitioner had continued to evade the law and several teams had been formed towards apprehending him. He eventually was arrested at Mumbai on 21.09.2015. The petitioner had been detained as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and such detention order subsequently, has been set aside. Even while in prison, the petitioner had involved himself in one more case of offence under Section 307 IPC. One of the co-accused in such case surrendered on 02.02.2013 and his confession brought to light the involvement of the petitioner. Out of the 20 cases against the petitioner, he had been acquitted in two, while others were pending, in some of which, he had been granted bail. The petitioner has absolutely no respect for the law and his enlargement on bail would seriously affect fair trial. The learned Additional Advocate General further submitted that the petitioner is an accused in case in Crime No.1017 of 2015 for the offences under Sections 341, 294 (b), 307, 120(B) and 506(ii) IPC r/w. 109 IPC r/w. 149 and 34 IPC., on the file of the Inspector of Police, K.Pudur Police Station, Madurai, relating to an attack on a witness in the present case. The learned Additional Advocate General also submitted that if the petitioner/accused is let out on bail, there is every possibility of the accused tampering the witnesses/evidence and hampering the investigation.

7.The submissions made by the learned counsel on either side are considered. The petitioner in both the Criminal Original Petitions is one and the same person. In the abovesaid Criminal Original Petitions, the Inspector of Police, CBCID, Madurai District and the Inspector of Police, K.Pudur Police Station, Madurai, are arrayed as respondent respectively. In the first case viz., Crl.O.P.(MD)No.17136 of 2017, the petitioner/A1 was arrested on 21.09.2015 and remanded to judicial custody for the offences punishable under Sections 147, 148, 341, 342, 212, 216, 302, 120(B), 109 r/w. 149 and 34 IPC and Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, in Crime No.11 of 2015 on the file of the respondent police. Originally, the Sub-Inspector of Police, C2-Subramaniyapuram Police Station (L & O), Madurai, registered a case in Crime No.68 of 2013 for the offences under Sections 147, 148, 341, 427 and 302 IPC. After securing 18 accused persons, during the course of investigation in connection with the case, the case was transferred to CBCID on 20.11.2015 as per orders

of the Director General of Police, Tamil Nadu. After completion of investigation, final report in the case was filed on 17.12.2015 and the same was taken on file in P.R.C.No.47 of 2015 by the learned Judicial Magistrate No.IV, Madurai, on 31.12.2015 and the same is still pending. In the second case viz., CrI.O.P.(MD)No.17137 of 2017, which relates to Crime No.1017 of 2015 registered by the Inspector of Police, K.Pudur Police Station, the petitioner herein was remanded to judicial custody for the offences punishable under Sections 341, 294(b), 307, 120(B) and 506(ii) IPC r/w. 109 IPC r/w. 149 and 34 IPC. In the said case, a charge sheet has been filed and the same is pending with the learned VI Additional District and Sessions Judge, Madurai, in S.C.No.456 of 2016.

8.Now, the first contention raised by the learned Senior Counsel appearing for the petitioner is that the petitioner herein has been falsely implicated in several cases due to political rivalry, therefore, he went to Bombay.

9.On the other hand, the learned Additional Advocate General appearing for the State submitted that the petitioner is having 13 cases in Madurai City and 5 cases in Madurai District and each one case in Tuticorin and Virudhunagar Districts, which are as follows:

Madurai City Cases:

1	B1 Vilakkuthoon P.S. 721/01, u/s.307 IPC r/w 25 (1)(B)(a) Arms Act, 1952 and 5 of Explosive Substances Act	Acquittal
2	Madurai City, CCB, Cr.No.78/09, u/s.406, 420 IPC case transferred to EOW Madurai	Discharged
3	B3 Teppakulam P.S., Cr.No.1991/09, u/s. 147, 148, 342, 324, 364, 397, 307, 506(ii) IPC	Pending Trial
4	Madurai City, CCB, Cr.No.53/11, u/s.406, 420, 427, 448, 468, 471, 506(i) IPC	Pending Trial
5	Madurai City, CCB, Cr.No.57/11, u/s.406, 420, 448, 387, 506(ii)IPC	Pending Trial
6	V2 Avaniapuram P.S., Cr.No.436/12, u/s.294(b), 506(ii) IPC	Pending Trial
7	V2 Avaniapuram P.S., Cr.No.339/11, u/s.147, 148, 294(b), 323, 406, 506(ii)IPC r/w. 407 Women Harassment Act	Under Investigation
8	V2 Avaniapuram P.S., Cr.No.639/12, u/s.147, 294(b), 506(ii)IPC	Under Investigation
9	V2 Avaniapuram P.S., Cr.No.672/12, u/s.353, 506(i) IPC	Under Investigation
10	V2 Avaniapuram P.S., Cr.No.747/12, u/s.147, 148, 294(b), 323, 506(ii) IPC	Under Investigation
11	B4 Keerathurai P.S., Cr.No.42/13, u/s.147, 148, 435, 506(ii) IPC r/w.3(1) of TNPPDL Act	Pending Trial

12	C2 Subramaniyapuram P.S., Cr.No.68/13, u/s.147, 148, 341, 342, 212, 216, 302, 120(B), 109 r/w.149, 34 IPC and 3(1) of TNPPDL Act	Pending Trial
13	E1 K.Pudhur P.S., Cr.No.1017/2015, u/s.341, 294 (b), 307 r/w.109 IPC	Pending Trial

Madurai District Cases:

14	Madurai District, Othakadai P.S., Cr.No.226/07, u/s.147, 148, 449, 436, 302, 307, 332, 120(b) IPC and 4 and 5 of I.E. Act and 4 of TNPPDL Act	Acquittal (Appealed by CBI)
15	Madurai District, District Crime Branch, Cr.No.30/12, u/s.120(B), 468, 471, 420 IPC	Pending Trial
16	Madurai District (DCB), Cr.No.67/12, u/s.147, 148, 341, 406, 420, 307, 506 (ii) IPC	Pending Trial
17	Madurai District, DCB, Cr.No.88/12, u/s.120(b), 406, 468, 420, 506(i) IPC	Pending Trial
18	Perungudi P.S., Cr.No.5/13, u/s.447, 379, 294(b), 506(i) IPC, r/w.21 and 23 of Mines and Minerals Development and Regulation Act	Pending Trial

Tuticorin District Case:

19	Tuticorin District, Kulasekarapattinam P.S., Transferred to Athur P.S., dt.13.08.2012, Cr.No.283/09, u/s.147, 148, 324, 307 IPC and 3 of TNPPDL Act	Pending Trial
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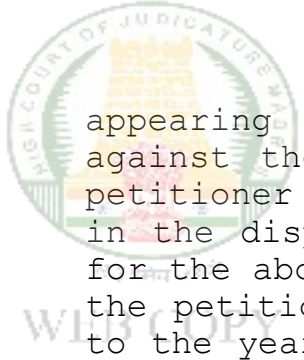
Virudhunagar District Case:

20	Virudhunagar District, Aruppukottai P.S., Cr.No.332/10, u/s.3 r/w.25(i) (B) (a) Arms Act and 120(b) IPC	Pending Trial
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10.As of now, in the abovesaid cases, the respondent police filed charge sheets in Item Nos.6 to 11 of the cases registered by V2 Avaniyapuram Police and B4 Keerathurai Police respectively. Even though those cases are referred for so many reasons, with regard to pending of other cases, the learned Senior Counsel appearing for the petitioner did not deny the particulars mentioned in the counter. Accordingly, the number of cases pending against the petitioner shows that he is a habitual offender. Further, it is alleged that in the cases registered against the petitioner, so many other persons are involved in the commission of offence. Now, when at the time the Court is about to dispose his cases, those persons have not appeared before the Court and because of that reason only, the respondent police are not in a position to produce the witnesses. So the cases are still pending. Apart from that, on the side of the petitioner, no document was produced to prove his innocence.

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11.The second contention raised by the learned Senior Counsel



appearing for the petitioner is that in all the cases registered against the petitioner, the respondent police charged the present petitioner for the offence under Section 120(B) IPC alone, but so far in the disposed cases, no conviction was awarded to the petitioner for the abovesaid offence. The learned Senior Counsel appearing for the petitioner further submitted that all the cases are pertaining to the year of 2009 and as of now, for the past few years, no case is registered against the petitioner. Even though the submission made by the learned Senior Counsel appearing for the petitioner is in support of the petitioner, this Court is having the duty to analyse the manner, in which, the petitioner committed the offences. Further, in the cases registered against the petitioner, the gravity of the offences have also to be considered.

12. In this context, it is relevant to refer the judgment of the Hon'ble Apex Court in **Ram Govind Upadhyay Vs. Sudharshan Singh and others** reported in **2002 (3) SCC 598**, wherein at Paragraph No.3, it has been held as follows:

'3. Grant of bail though being a discretionary order - but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for Bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the Court and facts however, do always vary from case to case. While placement of the accused in the society, though may be considered but that by itself cannot be a guiding factor in the matter of grant of bail and the same should and ought always be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail - more heinous is a crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.'

13. Further, in the case of **State of U.P. Through CBI Vs. Amarmani Tripathi** reported in **2005 (8) SCC 21**, the Hon'ble Apex Court held as follows:

'18. It is well settled that the matters to be considered in an application for bail are (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the



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offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail (see Prahlad Singh Bhati vs. NCT, Delhi [2001 (4) SCC 280] and Gurcharan Singh vs. State (Delhi Administration) [AIR 1978 SC 179]). While a vague allegation that accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused.''

14.The decisions of our Hon'ble Apex Court are squarely applicable to the cases on hand. The petitioner herein involved in the offences committed in daylight. Further, he is not in the habit of regularly appearing before the Court, in which, the cases are pending. In the above situation, the submission made by the learned Senior Counsel appearing for the petitioner that the petitioner has been falsely implicated in those cases is not substantiated with sufficient materials.

15.Even though the petitioner is having two children and ailing mother, it is the fundamental duty of this Court to look into the side of the victim, who suffered due to the crime committed by the accused. So the factors to be considered for granting bail are all not in favour of the petitioner. Accordingly, the second submission made by the learned Senior Counsel appearing for the petitioner also is not at all relevant one for considering the petitions in favour of the petitioner.

16.The allegations against the petitioner is that he is behind the attack on a witness in another case registered for the offence of murder. Further, the petitioner had gone into hiding for a period of two years and thereafter, only on formation of several teams, he was secured in Mumbai. Hence, for the reasons stated above, this Court is not inclined to release the petitioner on bail.

Accordingly, these Criminal Original Petitions are dismissed.

sd/-
18/01/2018

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1 THE INSPECTOR OF POLICE,
CBCID, MADURAI DISTRICT,

2 THE INSPECTOR OF POLICE,
C2, SUBRAMANIPURAM POLICE STATION (L&O)
MADURAI CITY, MADURAI.

3 THE INSPECTOR OF POLICE,
K.PUDUR POLICE STATION,
MADURAI CITY, MADURAI.

+2. CC to M/S.R.VENKATESWARAN Advocate SR.No.883, 884

ORDER

IN

CRL OP (MD) No.17136&17137/2017

Date :18/01/2018

PK/RR/SAR-1/22.01.2018 : 8P/6C