



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 28.04.2018

CORAM:

THE HONOURABLE MRS. JUSTICE R.THARANI

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Crl.A.(MD)No.203 of 2018

Rajagopal @ Gopala Krishnan ... Appellant/Petitioner/Accused 6

Vs.

State rep. By,
The Sub-Inspector of Police,
Muneerpallam Town Police Station,
Tirunelveli District.
Crime No.262 of 2014

... Respondent/Respondent

PRAYER: Criminal Appeal is filed under Section 14(A)(2) of the Scheduled Caste/Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2016, to set aside the order made in Crl.M.P.No.642 of 2018 dated 07.03.2018 on the file of II Additional District & Sessions Court, Tirunelveli and thereby release the appellant on bail in P.R.C.No.2 of 2015 on the file of the Judicial Magistrate Court No.IV, Tirunelveli.

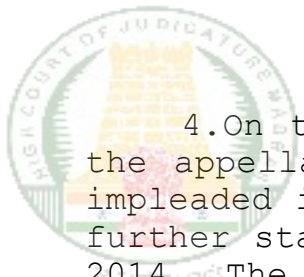
For Appellant	: Mr.P.R.Prithiviraj
For Respondent	: Mr.K.Suyambu Linga Bharathi, Government Advocate (Crl. Side)

JUDGMENT

Heard Mr.P.R.Prithiviraj, learned counsel appearing for the appellant and Mr.K.Suyambu Linga Bharathi, learned Government Advocate (Crl. Side) appearing for the respondent.

2.This appeal has been filed against the order passed made in Crl.M.P.No.642 of 2018 dated 07.03.2018 on the file of II Additional District & Sessions Court, Tirunelveli and thereby release the appellant on bail in P.R.C.No.2 of 2015 on the file of the Judicial Magistrate Court No.IV, Tirunelveli.

3.The alleged offence against the appellant is that on 02.08.2014, this appellant and others attacked the deceased with weapons and caused his death. The case was registered against the appellant and other in Crime No. 262 of 2014 in Muneerpallam Town Police Station under Section 307, 302 IPC r/w 34 IPC and 3(2)(v) SC St (POA) Act, 1989 r/w 120(b) IPC. The appellant filed a petition for bail in Crl.M.P.No.642 of 2018 dated 07.03.2018 which was dismissed by the Trial Court on 07.03.2018. This appeal was filed against the aforesaid order.



4. On the side of the appellant, it is stated that the name of the appellant did not find place in the FIR and the appellant was impleaded in the case only as A6 and only in the chargesheet. It is further stated that the occurrence has taken place only in the year 2014. The appellant is not aware of the case and the learned Judicial Magistrate has issued Non Bailable Warrant and the appellant was arrested on 22.12.2017 and still in custody for past 127 days.

5. On the side of the respondent, it is stated that totally 12 accused were involved in the occurrence in which the appellant is A6. The appellant is shown as absconding in the chargesheet. The learned Judicial Magistrate No. IV, Tirunelveli issued Non Bailable Warrant against this appellant and the appellant was arrested on 22.12.2017. The chargesheet is taken on file as P.R.C.No.2 of 2015 and has posted to 19.06.2018 for committal and he opposed to grant suspension of sentence.

6. Records perused. Though the offence is grave in nature, the appellant was actually not arrested at the time of investigation. The name of the appellant is impleaded only in the chargesheet and the appellant is shown as absconding. The appellant is in custody for past 127 days. Considering this facts, the Criminal Appeal is allowed and the Appellant is ordered to be released on bail, subject to the following conditions:

- (i) each of the appellant shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned II Additional District and Sessions Judge, Tirunelveli District;
- (ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned II Additional District and Sessions Judge, Tirunelveli District may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity.
- (iii) On release, the appellant shall stay at Tirunelveli and sign before the Muneerpallam Town Police Station once a day daily at 10:30 a.m., in the morning for a period of four weeks and thereafter, as and when required by the respondent police for interrogation.
- (iv) the appellant shall not tamper with evidence or witness either during investigation or trial.
- (v) the appellant shall not abscond either during investigation or trial.



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(vi) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the appellant in accordance with law as if the conditions have been imposed and the appellant released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The II Additional District and Sessions Judge,
Tirunelveli.
2. The Judicial Magistrate No.IV, Tirunelveli.
3. The Sub-Inspector of Police,
Muneerpallam Town Police Station,
Tirunelveli District.
4. The Superintendent, Central Prison, Palayamkottai.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.P.R.Prithiviraj, Advocate SR.No. 64708

CrI.A. (MD) No.203 of 2018
28.04.2018

mrn

JM/SV MMS/SAR 1/03.05.2018/3P/7C