



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 09.05.2018
CORAM:

THE HONOURABLE MRS.JUSTICE R.THARANI

Cr1.A.(MD) No.229 of 2018

Mookkandi ... Appellant / Accused No.12

Vs.

- 1.State rep. by
The Deputy Superintendent of Police,
Ambasamudram, Tirunelveli District.
- 2.State rep. by
The Sub-Inspector of Police,
Alwarkurichi Police Station,
In Cr.No.94 of 2009,
Tirunelveli District. ... 1 & 2 Respondents/Complainants
- 3.Thangadurai ... 3rd respondent/Defacto
Complainant

PRAYER: Criminal Appeal filed under Section 14A(2) of SC/ST(POA) Act, 1989 and Amended by Act 1 /2016, to call for the entire records relating to order dated 17.04.2018, in Cr.M.P.No.1075 of 2018 in S.C.No.62 of 2010, on the file of the learned II Additional District and Sessions Judge, Tirunelveli and set aside the same as arbitrary and consequently to release the petitioner on bail in connection with Crime No.94 of 2009 on the file of the 2nd respondent Police.

For Appellant : Mr.R.Shankar Ganesh
For Respondents 1 & 2 : Mr.K.Suyambulinga Bharathi
Government Advocate

J U D G M E N T

This Criminal Appeal has been filed to call for the entire records relating to the order dated 17.04.2018, in Cr.M.P.No.1075 of 2018 in S.C.No.62 of 2010, on the file of the learned II Additional District and Sessions Judge, Tirunelveli and set aside the same as arbitrary and consequently to release the petitioner on bail in connection with Crime No.94 of 2009 on the file of the second respondent Police. The appellant is confined at Central Prison, Palayamkottai, Tirunelveli District.

<https://hcservices.ecourts.gov.in/hcservices/>
2. The case of the prosecution is that on 30.05.2009, at about 5.30 p.m the accused Nos. 1 to 9 along with their men restrained



the defacto complainant and the victims and attacked them with aruval and knife and caused death of three victims on a communal issue.

3. The learned counsel appearing for the petitioner stated that the name of the petitioner was not found in the FIR and only because of the petitioner belonged to the community of the accused person, he was roped in the charge sheet. Only on the basis of a false confession given by a co-accused and the petitioner was impleaded as an accused. Thereafter, the petitioner was released on bail by the Trial Court. Subsequently, the second respondent police for statistic purpose impleaded the petitioner in another case and remanded him to judicial custody. Since the petitioner was remanded in judicial custody, the petitioner was not able to appear for the hearing date before the Trial Court. Hence, the Trial Court issued a Non Bailable Warrant and the petitioner was formally arrested on 28.12.2016 on PT Warrant. Therefore, the petitioner moved an application in Cr.M.P.No.1075 of 2018 and the Trial Court dismissed the application. Hence, the petitioner is before this Court with this petition.

4. On the side of the respondent it is stated that the petitioner is accused No.12 and there are totally 17 accused persons in the case. The petitioner was arrested only on 28.12.2016 on Non Bailable Warrant and the trial is in the stage of questioning under Section 313 Cr.P.C.. The petitioner is involved in eleven previous cases, out of them three were under Section 387 of IPC and three were under Section 307 of IPC and one other case was under SC/ST Act and hence, strongly opposed the release of the petitioner on bail.

5. Records perused.

6. On the side of the petitioner it is stated that the petitioner was not impleaded in the F.I.R. and the petitioner was unable to appear before the Trial Court, since he was arrested in some other case. Particulars of that case and the date of arrest are not stated in this petition. The trial of this case is pending before the Trial Court at 313 Cr.P.C., questioning stage. Considering the antecedents of the petitioner and considering the stage of the case pending before the Trial Court, this Court is not inclined to grant bail to the petitioner at this stage.

7. In the result, this Criminal Appeal is dismissed.

Sd/-

Assistant Registrar(RTI)

/True Copy/



To

1.The II Additional District & Sessions Judge,
Tirunelveli.

WEB COPY

2.The Deputy Superintendent of Police,
Ambasamudram,
Tirunelveli District.

3.The Sub-Inspector of Police,
Alwarkurichi Police Station,
Tirunelveli District.

4.The Superintendent,
Central Prison,
Palayamkottai,
Tirunelveli District.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

6.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.(2 COPIES)

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tm/ta

KK/KKR/SAR 3/15.05.2018/3P/8C