



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 26.07.2018

DELIVERED ON : 03.08.2018

CORAM :

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl.A.(MD) No.320 of 2018

Rocket Raja @ Raja @ Arumuga Pandian @ Vivekanandan
...Appellant/Accused No.3

vs.

- 1.State rep. By
The Assistant Commissioner of Police,
Tirunelveli City,
Tirunelveli District.
- 2.The Inspector of Police,
Tirunelveli Medical College Police Station,
Tirunelveli City
(Crime No.30 of 2018) ...1st and 2nd Respondents/Complainants
- 3.Kumar ... 3rd Respondent/Defacto Complainant

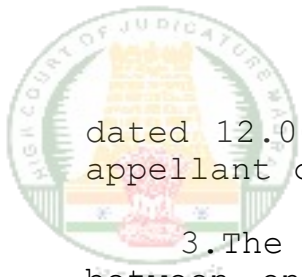
Prayer:- Criminal Appeal filed under Section 14(A)(1) of the Schedule Caste/Schedule Tribes (Prevention of Atrocities) Amendment Act, 2015 (1/2016), to call for the records and set aside the order passed by the learned II Additional District and Sessions Judge, Tirunelveli dated 12.06.2018 made in Cr.M.P.No.1742 of 2018 and enlarge the appellant on bail.

For Appellant	: Mr.Kathirvel Senior Counsel For Mr.K.Prabhu
For Respondents 1 & 2	: Mr.K.Suyambulinga Bharathi Government Advocate (Crl. Side)
For Respondent 3	: Mr.I.Robert Chandrakumar

JUDGMENT

Heard Mr.Kathirvel, learned Senior Counsel for Mr.Prabhu, learned counsel appearing for the appellant and Mr.K.Suyambulinga Bharathi, learned Government Advocate (Crl. Side) appearing for the respondents 1 and 2.

2.This appeal has been filed to set aside the order passed by the learned II Additional District and Sessions Judge, Tirunelveli



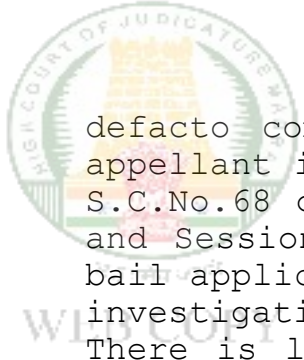
dated 12.06.2018 made in Cr.M.P.No.1742 of 2018 and to enlarge the appellant on bail.

3.The case against the appellant is that there was a dispute between one Kumar and the first and second accused regarding the land and the case in O.S.No.476 of 2016 is pending before the District Munsif, Tirunelveli. When the case was posted for judgment for 06.03.2018, the appellant with the support of A1 and A2 threatened L.Ws.1 to 4 and on 2018, A1 to A3 were stating that something has to be done against one Kumar who is causing problem in the land and conspired with the other accused and on 24.02.2018, A4 and A8 prepared country bomb in the house of A3 and A4 to A9 throw the country bomb upon the first witness and had injured the finger of the first witness. A6 has thrown the bomb upon the kitchen and had caused injury to the second witness. Accused 4 and 5 attacked one Senthil and murdered him. Only on the instigation of A1 to A3 and A10, A4 to A9 murdered the deceased and attacked the other witness. A case in Crime No.30 of 2018 is registered against the accused under Section 147, 148, 447, 294(b), 324, 302, 506(ii) and 120(B) of IPC and Section 3 and 4(a) of Explosive Substance Act r/w. Section 3(1)(r), 3(1)(s) of SC/St (POA) Amendment Act, 2015 and 3(2) (V) of SC/ST (POA) Act 1989.

4.On the side of the appellant, it is stated that the appellant was impleaded in this case only as a person who conspired regarding the offence and no other overt act is contributed against the appellant. All the three named persons who are stated in the FIR are not present in the scene of the occurrence. The allegations against the appellant is that he threatened the witness to withdraw the civil case. The civil case is pending against the defacto complainant and A1 and not agaist the appellant. A2 is only residing in Salem and there is no necessity for A3 to murder the son-in-law of the witness.

5.On the side of the appellant, it is stated that already co-accused was released on bail in CrI.A.(MD)No.228 of 2018 dated 03.05.2018. It is stated that the appellant was arrested in some other case and in that case bail was already granted and the appellant was produced on PT Warrant and was remanded on 09.08.2018 and the appellant is in custody for the past 80 days. It is further stated that the investigation is over and the charge sheet was already filed. The main accused A1 was already granted bail on the direction of this Court. The appellant was detained under the 'Gundas Act'. The detention under 'Gundas Act' was revoked by this Court in H.C.P.(MD)No.872 of 2018 dated 10.07.2018.

6.On the side of the respondent, it is stated that the civil case was pending between one Kumar and A1 and A2. A3 contacted the defacto complainant through cell phone and threatened him to withdraw the civil case. Some of the accused trespassed into the residents of the defacto complainant on 26.02.2018 and they have thrown country bomb and committed murder of the son-in-law of the



defacto complainant. 13 persons were arrested as accused and the appellant is A3. The charge sheet was filed and was taken on file in S.C.No.68 of 2018 on the file of the learned II Additional District and Sessions Judge, Tirunelveli. The lower Court has dismissed the bail application in Cr.M.P.No.1742 of 2018 dated 12.06.2018. Though investigation is over, the appellant is a notorious rowdy element. There is life threat faced by the family members of the deceased. The accused involved in 14 other cases including three murder cases and the appellant is a habitual offender and he objected to the release of the appellant on bail.

7.On the side of the appellant, it is stated that except two cases, all the other cases stated in the list of case filed by the respondent are from the year 1993 to 2002. At present only two cases are pending against the appellant, in one case, bail was already granted.

8.On the side of the third respondent, it is stated that there is some civil dispute between the third respondent and A1 and A2. The appellant threatened the third respondent to murder him if he did not withdraw the suit. The appellant is a notorious person having 13 cases including two murder cases and two attempt to murder cases against him. On 26.02.2018, the henchmen of the appellant trespassed into the residence of the third respondent with explosive substance and murdered his son-in-law. The Police filed the charge sheet and the case is pending under Sections 147, 148, 447, 294(b), 324, 302, 506(ii) and 120(B) of IPC and Sections 3 and 4(a) of Explosive Substance Act r/w. Sections 3(1)(r), 3(1)(s) of SC/St (POA) Amendment Act, 2015 and 3(2)(V) of SC/ST (POA) Act 1989. The third respondent and the family members are witnesses in the case and till date, the third respondent and his family members are receiving threats from unknown persons and movements of the family members are continuously monitored by unidentified persons. The third respondent sent a representation before the Director of the National SC/ST Commission, Tamil Nadu for police protection for the third respondent and his family members and the Commission has forwarded his representation to the DIG, Tirunelveli and the same was forwarded to the Commissioner of Police. The third respondent's daughter filed a petition in CrI.O.P.(MD)No.12512 of 2018 before this Court for armed police protection and this Court has passed an order that the Commissioner of Police, Tirunelveli to consider her representation within two weeks. If the appellant is released on bail, the appellant may tamper the witness and may cause life threat to the defacto complainant and his family members. He opposed the release of the appellant on bail.

9.On the side of the appellant, it is stated that the appellant is ready to comply with any condition imposed by this Court. The appellant is ready to remain at Mumbai or any other State till the orders of this Court and the appellant is ready for condition not to enter the concerned District and prayed to release the appellant on bail.



10. Records perused. It is clearly seen that the appellant is having so many cases from the year 1993 onwards. It is stated that only two cases are still pending and in all other cases, the appellant was acquitted. The appellant surrendered in another case on 07.05.2018 and he was produced on PT warrant in this case. He is in custody from 09.05.2018 onwards. The detention order passed under 'Gundas Act' was revoked by this Court on 10.07.2018. The specific overt act against the appellant is that he threatened the defacto complainant over phone to murder him unless he did not withdraw the suit which is pending between the defacto complainant and A1 and A2. Three persons are named in the FIR including this appellant. Only A4 to A9 have involved in the offence and were present in the place of occurrence. It is stated that they have committed the offence on the induction of A1 to A3. The two allegations against the appellant is that he conspired for the offence and he threatened the defacto complainant over phone. The objections raised by the defacto complainant, that there is is life threat for the defacto complainant and his family members.

11. In the above circumstances, the investigation is already over and the case was already taken on file. The appellant is in custody for the past 80 days. The trial Court order is set aside and this Criminal Appeal is allowed and this Court is inclined to release the appellant on bail on following conditions:

(i) the appellant shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh 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) the appellant has to reside in Mumbai till the completion of the trial of the case in S.C.No.68 of 2018 and he has to appear before the Commissioner of Police, Mumbai and sign two times a day I.e., at 10 a.m., and 5 p.m., until further orders.

(iv) the appellant should not enter the concerned District by name Tirunelveli until all the prosecution witness are thoroughly cross-examined.

(v) The trial has to be conducted on the representation of the appellant through his counsel. If the Court insists for the appellant's presence, the appellant has to obtain prior permission from this Court.



(vi) the appellant shall not tamper with the evidence or the witness either during investigation or during the trial.

(vii) the appellant shall not threaten or do any harm to the defacto complainant, his family members or the witnesses.

(viii) 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 (RTI)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1. The II Additional District and Sessions Judge,
Tirunelveli.
2. The Assistant Commissioner of Police,
Tirunelveli City,
Tirunelveli District.
3. The Commissioner of Police,
Tirunelveli.
4. The Commissioner of Police,
Mumbai.
5. The Superintendent,
Central Prison,
Coimbatore.
6. The Inspector of Police,
Tirunelveli Medical College Police Station,
Tirunelveli City.
7. The District Collector,
Tirunelveli.



8.The Director General Of Police,
Mylapore,
Chennai-4.

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

Copy to:

The Section Officer,
Criminal Section(Record),
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+3CC to Mr.K.Prabhu Advocate in SR.No.76842.

MRN

DS/SKN-RSK/SAR-4 :03.08.2018: 6P/15C

Cr1.A.(MD) No.320 of 2018
03.08.2018