



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.07.2018

CORAM :

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THE HONOURABLE MRS.JUSTICE R.THARANI

CrI.A, (MD) No.338 of 2018

Petchimuthu @ Payasam

... Appellant

vs.

1.State represented by
The Inspector of Police,
Tirunelveli Town Police Station,
(Crime No.579 of 2011)

2.Perumal

... Respondents

Prayer:- Criminal Appeal filed under Section 14(A) (2) of SC/ST appeal, to set aside the order in Cr.M.P.No.2152 of 2018 in S.C.No.140 of 2015 dated 12.07.2018 on the file of II Additional District & Sessions Judge, Tirunelveli (FCA) and enlarge the appellant on bail in Crime No.579 of 2011 dated 21.05.2015 on the file of the first respondent.

For Appellant	: Mr.M.Nallamuthu
For R1	: Mr.K.Suyambulinga Bharathi Government Advocate

JUDGMENT

Heard Mr.M.Nallamuthu, learned counsel for the appellant and Mr.K.Suyambulinga Bharathi, learned Government Advocate for the first respondent.

2.This criminal appeal has been filed to set aside the order in Cr.M.P.No.2152 of 2018 in S.C.No.140 of 2015 dated 12.07.2018, on the file of II Additional District & Sessions Judge, Tirunelveli (FCA) and to enlarge the appellant on bail in Crime No.579 of 2011 dated 21.05.2015, on the file of the first respondent.

3.The case against the appellant is that the appellant and others waylaid the deceased and attacked him with Aruval and caused the death of the deceased. A case was registered as against the appellant and others in Cr.No. 579 of 2011 for punishable under Sections 341, 294(b), 302 and 506 (ii) IPC and Section 3 (2) (V) of SC/ST (POA) Act @ 147, 148, 341, 294 (b), 302, 506 (ii) and 120 (B) IPC r/w 34 IPC and Section 3 (2) (V) of SC/ST (POA) Amendment Act, 1989 and was taken on file in S.C.No.140 of 2015.



4.The appellant was enlarged on bail in the year 2012 itself. Though the appellant instructed his advocate to file a petition under Section 317 Cr.P.C., the appellant's advocate was not able to file the same due to boycott and NBW was issued against the appellant.

5.Later, the case was split up and other co-accused were acquitted by the lower Court. In some other case, the appellant was arrested on 06.11.2015 and he was produced on PT warrant on 09.01.2017 and he is in custody for the past 1½ years.

6.On the side of the appellant, it is stated that the appellant is in custody for more than 550 days and he is having three children and his female child attained puberty recently and hence, the appellant has to perform the rituals and prayed to release him on bail.

7.On the side of prosecution, it is stated that the case was pending for a long time for the absence of the appellant and there is no reason why the appellant was absent from the year 2015 to 2017. The respondent police were able to produce the accused on PT warrant only on 2017 and he objected to release the appellant on bail.

8.Records perused. The appellant is in custody for the past 1 ½ years, the case against the other accused ended in acquittal. The appellant has undertaken to appear regularly before the concerned Court.

9.In the above circumstances, the Criminal Appeal is allowed and the Appellant is ordered to be released on bail, subject to the following conditions:

(i) 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, 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 Tirunelveli 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.

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(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.

(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 (Cr1.Side)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1.The II Additional District and Sessions Judge,
Tirunelveli(FCA).

2.The Inspector of Police,
Tirunelveli Town Police Station,
Tirunelveli.

3.The Superintendent,
Central Prison,
Madurai.

4.The Superintendent of Prison of Central Prison,
Central Prison,
Tirunelveli.

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

MM

DS/RSK-SKN/SAR-1 :01.08.2018: 3P/6C