



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2018

CORAM:

WEB COPY

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRIMINAL APPEAL (MD) No.412 of 2018

Nagendiran .. Appellant/ Petitioner (Accused No.6)

Vs.

1. The State Rep. by its
The Deputy Superintendent of Police
Theni
Theni District ...1st Respondent/Respondent

2. The State Represented by
The Inspector of Police
Theni Police Station
Theni District
(Crime No.679 of 2016) ...2nd Respondent/Complainant

3. Veeradeivam ...3rd Respondent/Defacto Complainant

PRAYER : Criminal Appeal is filed under Section 14(A)(2) of Scheduled Caste/Scheduled Tribes Act, 1989 as amended by Act 1 of 2016, to call for the records relating to the order in Cr.M.P.No.2452/2018 dated 03.09.2018 on the file of the learned Principal Sessions Judge, Theni and to set aside the same and consequently release the petitioner on bail in connection with the FIR in Crime No.679 of 2016 on the file of the first respondent police.

For Appellant : Mr.Jeyakarthik

For R-1 and R-2 : Mr.A.Robinson,
Government Advocate (Crl.Side).

JUDGMENT

The criminal appeal is filed against the order dated 03.09.2018 passed in Cr.M.P.No.2452 of 2018 on the file of Principal Sessions Judge , Theni .



2. Heard the learned counsel appearing for the appellant, the learned Government Advocate (Crl.side) appearing for the respondents 1 and 2. Defacto complainant informed through the Government Advocate (Crl.Side). No representation for the defacto complainant.

3. The Victim has been informed about the bail petition through the learned Government Advocate (Crl.side).

4. Records perused. The alleged occurrence has been taken place on 17.08.2016 and First Information Report was registered in Crime No.679 of 2016 dated 17.08.2016 for offences under Sections 147, 148, 294(b), 323, 506(i) of IPC r/w. 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST (PAO) Amendment Act 2015 by the respondent police against 8 named accused and 30 other unnamed accused. The petitioner herein is arrayed as A6. After completion of investigation, final report has been filed and taken cognizance of the trial court in Special S.C.No. 54 of 2017. Those accused were shown as absconding accused. Later on execution of Non Bailable Warrant he has been apprehended to prison on 29.08.2018. This petition for bail was dismissed by the trial court taking note of the objections made by the Public Prosecutor as well as the Victim.

5. The learned Government Advocate (Crl.side) would submit that final report has been filed against eight persons out of which only three were appearing before the trial court on the dates of hearing other five persons failed to appear. Hence Non Bailable Warrant was issued by the trial court against this petitioner and three others. The conduct of the petitioner indicates that he will not be available for the trial and co-operate with the trial. Hence the bail application should be dismissed.

6. Per Contra, the learned counsel appearing for the appellant would submit that he is ready to abide by any stringent conditions that may be imposed by this Court. The appellant is in jail from 29.08.2018.

7. Considering the nature of the complaint and the period of incarceration, this Court is inclined to grant bail to the appellant, by allowing the Criminal Appeal on the following conditions:-

- (i) the appellant/accused shall be enlarged on bail, on his executing a bond for Rs.10,000/- (Rupees Ten Thousand only) each, with two sureties, out of which one shall be blood related surety, each for a like sum to the satisfaction of learned Principal Sessions Judge (PCR Act Cases), Theni
- (ii) the appellant/accused shall report before the trial court everyday at 10.30 a.m. for a period of three months from today;

<https://hcservices.ecourts.gov.in/hcservices/> (iii) the appellant/accused shall not tamper with investigation or trial; and



(iv) on breach of any of the aforesaid conditions, the learned trial Judge is entitled to take appropriate action, as if the conditions have been imposed and the appellant released on bail by the trial Judge himself as laid down by Hon'ble Supreme Court in P.K.Shaji vs State of Kerala in 2005 AIR SCW 5560.

sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1. The Principal Sessions Judge (PCR Court),
Theni.
2. The Deputy Superintendent of Police,
Theni,
Theni District.
3. The Inspector of Police,
Theni Police Station,
Theni District.
4. The Superintendent,
Central Prison,
Madurai.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.A.Sivakumar Advocate in Sr.no.17223.

AAV

DS SV SAR-4:11.09.2018: 3P/7C

JUDGMENT MADE IN
CRIMINAL APPEAL(MD) No.412 of 2018
10.09.2018