



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Twentieth day of November Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP (MD) No.17967 of 2018

SHEIK DAWOOD

... PETITIONER / ACCUSED NO.1

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
KEELAKARAI POLICE STATION,
RAMANATHAPURAM DISTRICT.
CRIME NO.46/2018

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.M.SEENISULTHAN, Advocate

For Respondent : Mr.S.CHANDRASEKARAN, Additional Public Prosecutor

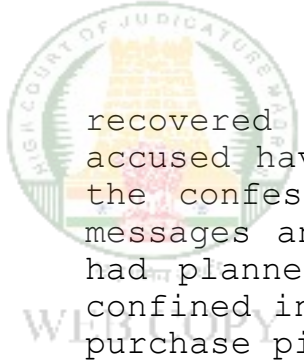
PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

[Orders Reserved on 09.11.2018]

The petitioner, who was arrested by the respondent police on 30.08.2018, for the offences punishable under Sections 153(A), 120 (B) IPC., and Sections 15, 17, 18, 19, 20 of Unlawful Activities (Prevention) Act, 1967 and Section 25(1)(a) of Arms Act, 1959, in Crime No.46 of 2018, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 01.04.2018 at about 8.30 p.m., reliable information was received by the respondent Police that Islamic Fundamentalist in Keelakarai had assembled and conspired to create disharmony between two religious groups and against the Government. Immediately, the respondent had reached the place at 8.45 p.m., arrested three persons and had recovered sword, cellphone and leaflets containing the verses of "Shahadat is our goal", wherein some communal disharmony messages have been printed. Thereafter, the accused had been arrested and on confession of co-accused / A2, the petitioner's involvement in the case came to be known. Further, this Group had formed a WhatsApp Group, spreading Islamic Fundamentalist messages, to promote enmity between two communities. Thereafter, the accused were arrested in the case. Totally, there are ten accused. The petitioner / accused had given a confession. Based on his confession, knife, leaflets have been



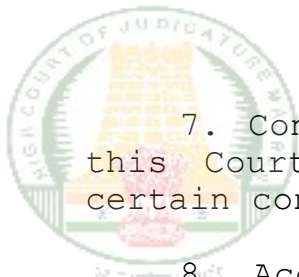
recovered and seized. Further, mobile phones of some of the accused have been seized and sent to Forensic Lab. The accused in the confession have stated about joining the group and spreading messages and had been meeting at the residence of A2, wherein they had planned to release the Islamic Fundamentalist, who have been confined in various jail, by using force. Further, they intended to purchase pistols from one Mohamed Sathik, who is known to one of the accused. Thus, the accused had conspired together to create communal harmony by using arms and force thus, their act amounts to terrorist act.

3. Mr.M.Seenisulthan, the learned counsel appearing for the petitioner would submit that the petitioner has been implicated in this case for the reason that he belongs to a particular sect of Religion. Even as per the prosecution case, except two mobile phones, nothing were seized from this petitioner. There was no instances of any disharmony or communal hatred to invoke the provisions of Arms Act and Unlawful Activities (Prevention) Act, for the purpose of diverting the attention of the general public, from concentrating on some political issue, the present case has been registered and foisted against the petitioner. The petitioner was arrested and is in judicial custody from 31.08.2018.

4. Mr.S.Chandrasekaran, the learned Additional Public Prosecutor appearing for the respondent had filed a counter detailing about the registration of the case, arrest of the accused, seizure of leaflets and mobile phones from the accused. The Mobile Phone were handed over to the Forensic Department. The specific overt act, as against the present accused is that Mohamed Sathik S/o.Mohamed Musthafa, of Mandapam Camp, was approached to buy pistols by the petitioner and A2 / Mohamed Ribas and the said Mohamed Sathik had given a 164 Cr.PC., statement before the learned Judicial Magistrate, Ramanathapuram, in Cr.M.P.No.1351 of 2018, on 23.04.2018. Therefore, he resisted the bail application of the petitioner.

5. I have heard the learned counsel appearing on either side and perused the materials available on record.

6. The petitioner is in confinement from 30.08.2018. Some of the accused, who were detained under the National Security Act, had filed a Habeas Corpus Petition before a Division Bench of this Court and the detention order has been set aside. It is seen from the record that from this accused, a knife and leaflets were seized and in Form-95 in PR.164/18, dated 01.09.2018, reveals the fact that only the knife had been forwarded. Further, with regard to purchase of pistols, from the said Mohamed Sathik, who is in Rameswaram Camp, who had given a statement under Section 164 Cr.P.C., on 23.04.2018 and on perusal of the same, there is nothing found as against this petitioner. Further, in this case, all the accused other than the petitioner have been released on bail.



7. Considering the above facts and circumstances of the case, this Court is inclined to granted bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Ramanathapuram and on further condition that:

[a] the petitioner shall appear before the learned Judicial Magistrate No.I, Ramanathapuram, daily at 10.30 a.m., until further orders.

[b] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioner shall not abscond either during investigation or trial.

[d] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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].

[e] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

20/11/2018

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE JUDICIAL MAGISTRATE NO.I, RAMANATHAPURAM.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
3. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
4. THE INSPECTOR OF POLICE,
KEELAKARAI POLICE STATION, RAMANATHAPURAM DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.M.SEENISULTHAN Advocate SR.No.21790

ORDER IN

CRL OP(MD) No.17967 of 2018

Date :20/11/2018

MS/VR-MMS/SAR-4/20.11.2018/3P.7C