



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.10.2018

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**

Crl.A.(MD)No.460 of 2018

S. Mahalingam

.. Petitioner/Accused No.4/  
Appellant

**Versus**

The State rep., by  
The Inspector of Police,  
Tallakulam Police Station,  
Madurai.  
(Crime No.27 of 2014)

..Respondent/Complainant

**Prayer:** Criminal Appeal filed under Section 14 A(2) of SC/ST (POA) Act, 1989 to call for the records in Cr.M.P.No.933 of 2018 on the file of the Learned III Additional District and Sessions court (PCR) Madurai dated 19.09.2018 and set aside the same as illegal and enlarge the appellant/ petitioner/accused on bail in Spl.S.C.No.103 of 2018 on the file of the Learned III Additional District and Sessions Court (PCR) Madurai.

For Appellant : Mr.Sheik Abdullah  
For Respondent : Mr.A.Robinson, (Crl.Side)  
Government Advocate.

**JUDGMENT**

Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondent.

2. This appeal is filed seeking bail for the appellant, who is arrayed as Accused No.4 in the case registered for offences under Sections 147, 148, 149, 341, 302 IPC r/w 3(2)(v) of SC/ST Act.

3. The learned counsel for the appellant would submit that the petitioner being the sole breadwinner of the family was working in Kerala to earn his family livelihood. His employer treated him almost like a bonded labourer and therefore, he was not able to attend the Court during trial. Except on two occasions, he had been regularly appearing before the Court. Thereafter, he was arrested in another case and was remanded to prison. From the prison, he had been produced before the trial Court under PT warrant. Thereafter,



after obtaining bail, he went to Kerala and was not allowed to attend the Court by his employer. Hence, his absence on 22.02.2016.

4. The learned Government Advocate appearing for the respondent police would submit that in this case, the accused one after another got absconded themselves and till date, the charges could not be framed. Earlier A1 disappeared and was secured on execution of NBW on 20.06.2017. Thereafter, A3 disappeared and warrant was issued on 14.03.2017 and on 10.07.2017, the warrant was recalled. And now, this appellant/A4 absented himself from attending the Court. Hence, NBW was issued on 22.12.2017 and a special team was constituted to secure the accused/appellant. On 17.07.2018, the appellant was secured and remanded to prison.

5. Learned counsel would also submit that at the instance of one of the accused, the case was transferred to the Special Court (PCR), Madurai and for appearance of the accused, the matter is posted for hearing on 02.11.2018 for framing charges. In such circumstances, the learned Government Advocate strongly objects this bail petition.

6. On going through the impugned order passed by the learned III Additional Judge (PCR), Madurai, this Court finds that the trial Court after going through the records had passed the order dismissing the bail petition after considering all the facts and circumstances involved in this case. He has rightly pointed out that issuance of NBW for non-appearance will not tantamount to cancellation of bail. The purpose of issuing NBW is to secure the presence of the accused before the Court and once the accused is secured, the purpose of issuing of NBW gets accomplished.

7. While stating so, the learned Judge has also recorded that the remand of the accused who has been secured on execution of NBW, will neither amount to cancellation of bail or forfeiture of the bond. Therefore, question of granting bail to the petitioner does not arise. So this part of the observation made by the learned Judge may not be in full consonance with law, but on fact to consider whether the accused is entitled for liberty or not, this Court is of the opinion that due to the antecedent of the petitioner/ appellant, it is not appropriate to grant this bail. Hence, the Criminal Appeal is dismissed.

8. The III Additional Sessions Court, Special Court to deal with PCR cases is directed to expeditiously dispose of the trial preferable within a period of six months.

Sd/-  
Assistant Registrar (RTI)



The Additional District and Sessions Judge (PCR),  
Madurai.

**Copy To:-**

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

+ 1 CC TO Mr.M.SHEIK ABDULLAH, ADVOCATE IN SR No. 93326

STS

TE/BK/SAR-2 : 07/12/2018 : 3P/4C

Judgment in  
Crl.A. (MD) No.460 of 2018  
30.10.2018