

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Tuesday, the Fifth day of February Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice N. ANAND VENKATESH

CRIMINAL ORIGINAL PETITION No.30145 of 2018

SRINIVASAN @ MURALI

[ PETITIONER / ACCUSED ]

Vs

THE STATE REP BY ITS,  
THE INSPECTOR OF POLICE,  
Q BRANCH POLICE STATION,  
DHARMAPURI DISTRICT,  
CR.NO.1 OF 2017.

[ RESPONDENT ]

For Petitioner : M/S.R.SANKARASUBBU Advocate

For Respondent : M/S.M.PRABHAVATHI, ADDITIONAL PUBLIC PROSECUTOR

PETITION FOR BAIL 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who was arrested and remanded to judicial custody on 01.01.2017 for an offence under Sections 13(1) (b), 18, 19, 20 and 38 of Unlawful Activities (Prevention) Act 1967 and 120(B) of IPC in Crime No.1 of 2017 on the file of the respondent police, seeks bail.

2.The learned counsel for the petitioner would submit that the case of the prosecution is that the petitioner belongs to a Maoist group and he was issuing pamphlets and books propagating the ideology of Marx and Lenin. The learned counsel for the petitioner further submitted that this petitioner was arrested and remanded to judicial custody on 01.01.2017 and he has been inside the jail for more than two years. The learned counsel further submitted that the investigation is completed, a final report has already been filed and now, the case is at the stage of framing of charges. Therefore, the learned counsel submitted that the petitioner has to be granted bail in order to defend himself before the Court and in order to ensure that there is a fair trial. The learned counsel further brought to the notice of this Court the order passed in the bail petition filed by A5 in a similar case, who is said to be the person who handed over the banned materials to the petitioner. The bail petition filed by such accused person (A5) was considered in detail by this Court (Madurai Bench) and by an order dated 28.04.2018 made in CrI.OP(MD) No.6670 of 2018, he was granted bail.

3.The learned Additional Public Prosecutor submitted that this

petitioner is involved in a serious crime and even though, this petitioner has been incarcerated for more than two years, there is a possibility that this petitioner will stall the trial and will also abscond from the clutches of law and therefore, the petitioner has to be confined till the completion of the trial in this case. The learned counsel further submitted that the case is at the stage of framing of charges and it is posted on 15.02.2019, before the learned Principal District Judge, Dharmapuri.

4.This Court has carefully considered the submissions made on either side.

5. Admittedly, this petitioner is in judicial custody for more than two years. The investigation has been completed and the final report has also been filed before the concerned Court. The case is now at the stage of framing of charges. Therefore, the petitioner has to necessarily prepare himself to defend his case and the petitioner must be given an opportunity of fair trial before the concerned Court. The petitioner cannot be kept in judicial custody merely based on apprehension that he may abscond without there being any materials to support the same. This Court, therefore, is of the considered view that in order to afford the petitioner, a fair trial and a reasonable opportunity to defend himself in the case, the petitioner can be enlarged on bail.

6. 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 Principal District Judge, Dharmapuri and on further conditions that:-

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent police daily twice at 10.30 a.m. and 5.30 p.m before the respondent police, except on the hearing dates, till the disposal of the case.

[c] The petitioner shall attend during every hearing date before the learned Principal District Judge, Dharmapuri, without fail, unless his absence is condoned by filing a petition under Section 317 of Cr.P.C.

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

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

[f] 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]**.

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

-sd/-  
05/02/2019

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)  
High Court, Madras - 600 104.

TO

1 THE PRINCIPAL DISTRICT JUDGE,  
DHARMAPURI.

2 THE INSPECTOR OF POLICE,  
Q BRANCH POLICE STATION,  
DHARMAPURI DISTRICT.

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,  
CENTRAL PRISON, SALEM .

+1CC to M/S.R.SANKARASUBBU Advocate on payment of necessary charges in SR.NO. 2614

CRL OP.30145/2018

Date :05/02/2019

MLT-05/02/2019

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