



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

Monday, the Twenty Ninth day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice B.PUGALENDHI

CRL OP(MD) No.4120 of 2019

1 SANGA SRANTH

2 MOHAMMED SAFFRAS

... PETITIONERS/ ACCUSED No.1 and 2

Vs

STATE REP. BY

THE INSPECTOR OF POLICE

KENIKARAI POLICE STATION,

RAMANATHAPURAM DISTRICT

(CR.NO.59/2019)

... RESPONDENT/ COMPLAINANT

For Petitioner : M/S. N.Jeyaram Sidharth, Advocate

For Respondent : Mr.K.K.Ramakrishnan,

Additional Public Prosecutor for State

Mr.N.Nagendran, Special Public Prosecutor for CBI

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

ORDER : The Court Made the following order :-

FOR BAIL IN CR.NO.59/2019 ON THE FILE OF THE RESPONDENT POLICE.

The petitioners/Accused No.1 & 2, who were arrested and remanded to judicial custody on 28.02.2019 for the commission of offence punishable under Sections 3(a) and 6(a) of Passport (Entry into India) Rules, 1950, 14 of Foreigners Act, 1946, 468, 471 and 212 of IPC in Crime No.59 of 2019 on the file of the respondent police, seek bail.

2.Heard Mr.N.Jeyaram Sidharth, learned Counsel for the petitioners, Mr.K.K.Ramakrishnan, Additional Public Prosecutor appearing for the State and Mr.N.Nagendran, learned Special Public Prosecutor appearing for CBI.

3.The case of the prosecution is that the petitioners, who are Sri Lankan citizens have illegally entered into the Indian Territory without any valid documents and therefore, they were



arrested by the respondent Police in Crime No.596 of 2019 for the offence punishable under Sections 3(a) and 6(a) of Passport (Entry into India) Rules, 1950, 14 of Foreigners Act, 1946, 468, 471 and 212 of IPC.

4.The learned Counsel appearing for the petitioners would submit that the petitioners are Sri Lankan nationals and they have entered into India for business purposes and they are innocents and apart from this case, the petitioners have not committed any offence in India and they are languishing in jail from 28.02.2019.

5.When this Criminal Original Petition was taken up for hearing, this Court by order dated 29.03.2019, directed the Additional Public Prosecutor and also the Special Public Prosecutor, CBI to get instructions, as to the antecedents of the petitioners from the Ministry of External Affairs and Passport Authorities.

6.Pursuant to the direction of this Court, the Special Public Prosecutor for CBI, had submitted a report on 04.04.2019, wherein, it has been specifically mentioned that the first petitioner has involved in two murder cases in the year 2012 and he was arrested and released on bail in Sri Lanka in the year 2015 and during the general election, he got connected with one Army sampath, an underworld criminal and indulged in a gang war between the United National Party and Sri Lanka Freedom Party and in the gang war, a woman died during firing between these rivals. In connection with this case was, he arrested in the year 2016 and released on bail in the year 2017. The first petitioner again in the year 2018 involved in a murder case in Sri Lanka and in order to escape from the clutches of law, at Sri Lanka, he entered into Tamil Nadu with fake documents to avoid arrest in the subsequent murder case, which took place in the year 2018. He would further submit that the first petitioner is involved in several murder and rape cases in Sri Lanka and the High Commissioner of Sri Lanka had requested the Government of India to deport the first petitioner back to Sri Lanka. The second petitioner is the Driver of the first petitioner and he is closely associated with the first petitioner, however, his antecedents cannot be ascertained.

7.The learned Additional Public Prosecutor appearing for the State would submit that in response to the request made by the High Commissioner, Sri Lanka, the Government of India has also made a request to the Superintendent of Police, Ramanathapuram and the Superintendent of Police, Q-Branch, Chennai, to send a proposal along with their subsequent recommendations for deporting the petitioners and to furnish the report on the disposal of the case registered in Kenikarai Police Station in Crime No.59 of 2019, wherein these petitioners have been remanded into judicial custody.



8.The learned Additional Public Prosecutor also expressed his concern that if the petitioners are enlarged on bail, it would spoil the steps taken by the Government of India and the process of deportation of these petitioners to Sri Lanka and the petitioners having bad antecedents, if released on bail, would indulge in such activities in Tamil Nadu, it would be detrimental to the national interest also.

9.It is also brought to the notice of this Court that as per Section 3 of Foreigners Act, 1946 (31 of 1946) the Central Government may by order make provision, either generally or with respect to all foreigners or with respect to any particular foreigner or any prescribed class or description of foreigner, for prohibiting, regulating or restricting the entry of foreigners into India or, their departure therefrom or their presence of continued presence therein. The powers for deportation/ repatriation of a foreigner are vested in the Central Government in terms of Section 3 (2)(c) of the Foreigners Act, 1946, according to which orders made under Section 3 may provide that the foreigner shall not remain in India or in any prescribed area therein. Further in terms of Section 3(2)(e) of the Foreigners Act, 1946 read with para 11 (2) of the Foreigners Order, 1948, Central Government has powers to issue orders requiring the foreigner to reside in a particular place and imposing restrictions on his movements. These powers of the Central Government under Sections 3(2)(c) and 3(2)(e) of the Foreigners Act, 1946 and the Foreigners Order, 1948 have also been delegated to the State Governments and UT Administrations vide Notifications S.O.Nos.590 and 591 [F.No.4/3/56-(I)F1] dated 19th April, 1958.

10.It appears that the Government of India, in response to the request made by the Government of Sri Lanka, has taken steps to deport the petitioners herein to Sri Lanka as they have involved in serious offences including four murder cases at Sri Lanka.

11.In view of the above narrative, this Court is not inclined to enlarge the petitioners on bail, at this stage and accordingly, this criminal original petition is dismissed.

sd/-
29/07/2019

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



1 THE INSPECTOR OF POLICE
KENIKARAI POLICE STATION, RAMANATHAPURAM DISTRICT.

2 THE SUPERINTENDENT
CENTRAL PRISON, PUZHAL.

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

4 THE SPECIAL PUBLIC PROSECUTOR FOR CBI CASES,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S. RM.ARUNSWAMINATHAN Advocate SR.No.12448

ORDER
IN
CRL OP(MD) No.4120 of 2019
Date :29/07/2019

dsk
JMN/PN/SAR-4/06.08.2019/4P-6C