



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 07.11.2019

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

CRL. A. (MD) NO. 444 OF 2019

1. D.Vinoth Kumar
2. P.Durai
3. Mari @ Mariselvam
4. A.Sakthi Venkadesh .. Appellants/Accused 4, 5, 7 & 12

- Vs -

1. State Rep. by
The Deputy Superintendent of Police
Samayanallur Range
Madurai District.
2. The Inspector of Police
Samayanallur Police Station
Madurai District. .. Respondents/Complainants
3. Premalatha .. 3rd Respondent/Defacto
Complainant

Criminal Appeal filed u/s 14 A(2) of the SC/ST (PoA) Act, 1989, against the order dated 05.09.2019 made in Cr. M.P. No.1012/2019 on the file of the III Additional District and Sessions Judge, (PCR), Madurai, set aside the same and release the appellants on bail.

For Appellants : Mr. K.Muthuganesha Pandian

For Respondents : Mr. V.Neelakandan, APP for RR-1 & 2

JUDGMENT

The appellants, along with other accused, were charged for the offences u/s 147, 148, 452, 294 (b), 342, 506 (ii) and 302 IPC and Section 4 of the Prohibition of Harassment of Women Act and Section 3 (2) (V) of the SC/ST (PoA) Act. Pending trial, the appellants herein filed bail application, which, after hearing was dismissed by the trial court against which the present miscellaneous petition is filed.

2. Vide order dated 25.10.2019, learned counsel appearing for the appellants submitted that he is giving up the plea for bail insofar as the 4th appellant is concerned and the same was recorded



by this Court. Therefore, the appeal insofar as the 4th appellant stands dismissed.

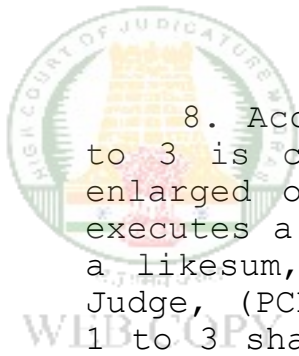
3. Learned counsel appearing for the appellants 1 to 3 submit that though the prosecution has completed the investigation and filed the charge sheet, which fact has been recorded by the learned trial Judge, yet, bail has not been granted to the appellants on the ground that there is a possibility of them tampering with the evidence. It is the submission of the learned counsel for the appellants that even according to the prosecution case, the appellants were allegedly guarding the house when the crime was perpetrated and the appellants not being attributed with any overt acts, they could be granted the benefit of suspension. It is further submitted that some of the accused have been enlarged on bail by this Court vide order dated 23.10.2019 in CrI. A. (MD) No.463/2019 and, therefore, these appellants, who are similarly placed may also be granted the similar benefit. It is further submitted by the learned counsel for the appellants that the appellants will not indulge in any act that would impede with the conduct of the trial and, hence, prays for enlarging the appellants on bail.

4. Per contra, Mr. V.Neelakandan, learned Addl. Public Prosecutor, appearing for respondents 1 & 2 submitted that the trial court, after detailed arguments by both sides, by a reasoned order, has rejected the application for bail and, therefore, no interference is called for with the said order and this petition is liable to be dismissed.

5. Though notice was issued to the defacto complainant/3rd respondent and the same has been served, yet there is no appearance for the 3rd respondent. In spite of the name of the 3rd respondent being printed in the cause list, there is neither representation for the 3rd respondent through counsel nor the 3rd respondent is present in person.

6. This Court gave its careful consideration to the submissions advanced on either side and also perused the materials available on record.

7. Considering the submissions advanced by the learned counsel on either side and the fact that no overt act has been attributed to the appellants 1 to 3 and that charge sheet has been filed and that the trial of the case would take some time to complete and taking into consideration the incarceration of the appellants 1 to 3 for a considerable period of time, this Court is inclined to allow the criminal appeal insofar as appellants 1 to 3 are concerned by setting aside the order dated 05.09.2019 made in Cr. M.P. No.1012/2019 passed by the III Addl. Sessions Judge, (PCR), Madurai, by granting bail to the appellants 1 to 3.



8. Accordingly, this appeal is allowed insofar as appellants 1 to 3 is concerned and the appellants 1 to 3 are directed to be enlarged on bail on condition that each of the appellant 1 to 3 executes a bond for a sum of Rs.10,000/- with two sureties, each for a likesum, to the satisfaction of the learned III Addl. Sessions Judge, (PCR), Madurai, and on further condition that the appellants 1 to 3 shall appear before the said Court at 10.30 a.m. on the 1st working day of every English Calendar month until further orders. The appeal insofar as the fourth appellant is concerned stands dismissed in view of the statement of the learned counsel for the appellants, as recorded vide order dated 25.10.2019.

Sd/-

Assistant Registrar (Writs)

// True Copy //

Sub Assistant Registrar (CS)

GLN

To

1. The III Addl. District & Sessions Judge
(PCR), Madurai.
2. The Superintendent, Central Prison, Madurai.
3. The Deputy Superintendent of Police
Samayanallur Range
Madurai District.
4. The Inspector of Police
Samayanallur Police Station
Madurai District.

Copy to:

The Addl. Public Prosecutor
Madurai Bench of Madras High Court
Madurai.

+1 CC to M/s.MUTHU GANESA PANDIAN, Advocate (SR-96748[F] dated 07/11/2019)

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JMN(07.11.2019) 3P : 7C