



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 14.11.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

CRL. A. (MD) NO. 448 OF 2019

Nagasundaram

.. Appellant/Petitioner/Accused
(Unknown)

- Vs -

1. The Deputy Superintendent of Police
Samayanallur
Madurai District.

2. The Inspector of Police,
Samayanallur Police Station, Madurai District.
(Crime No.161/2019) ...Respondent / Complainant

3. Premalatha .. Respondents/Defacto Complainant

Criminal Appeal filed u/s 14 A(2) of the SC/ST (PoA) Act, 1989, against the order dated 07.09.2019 made in Cr. M.P. No.1016/2019 in Crime No.161/2019 on the file of the III Addl. Sessions Judge, (PCR), Madurai, set aside the same and release the appellant on bail.

For Petitioner : Mr. N.Kamesh

For Respondents : Mr. V.Neelakandan, APP for RR-1
and R2
No Appearance for R-3

JUDGMENT

The appellant, 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 appellant herein filed bail application, which, after hearing was dismissed by the trial court against which the present miscellaneous petition is filed.



2. Learned counsel appearing for the appellant submits 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 appellant on the ground that there is a possibility of him tampering with the evidence. It is further submitted by the learned counsel for the appellant that no specific overt act has been attributed to the appellant. It is further submitted by the learned counsel for the appellant that the appellant will not indulge in any act that would impede with the conduct of the trial and, hence, prays for enlarging the appellant on bail. It is further submitted that some of the co-accused have been granted bail by this Court vide order dated 23.10.2019 in Crl. A. (MD) No.463/2019 and, therefore, similar relief may be granted to this appellant as well.

3. Per contra, Mr. V.Neelakandan, learned Addl. Public Prosecutor, appearing for respondent No.1 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. However, learned Addl. Public Prosecutor acknowledges the fact that some of the co-accused have been granted bail recently by this Court.

4. Though notice was issued to the defacto complainant/2nd respondent and the same has been served, yet there is no appearance for the 2nd respondent. In spite of the name of the 2nd respondent being printed in the cause list, there is neither representation for the 2nd respondent through counsel nor the 2nd respondent is present in person.

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

6. Considering the submissions advanced by the learned counsel on either side and the fact that no overt act has been attributed to the appellant 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 appellant for a considerable period of time, this Court is inclined to allow the criminal appeal by setting aside the order dated 07.09.2019 made in Cr. M.P. No.1016/2019 passed by the III Addl. Sessions Judge, (PCR), Madurai, by granting bail to the appellant.

7. Accordingly, this appeal is allowed and the appellant is directed to be enlarged on bail on condition that the appellant 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 appellant



shall appear before the said Court at 10.30 a.m. on the 1st working day of every English Calendar month until further orders.

Sd/-

Assistant Registrar (P AND A)

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// True Copy //

Sub Assistant Registrar (CS)

GLN

To

1. The III Addl. District & Sessions Judge
(PCR), Madurai.

2. The Judicial Magistrate, Vadipatti

3. The Deputy Superintendent of Police,
Samayanallur, Madurai District.

4. The Inspector of Police,
Samayanallur Police Station, Madurai District.

5. The Central Prison, Madurai.

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

+1 cc Mr.N.KAMESH ,Advocate, SR.No. 98240

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KK/SAR/20.11.2019/3P-8C/