

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.06.2020

PRNOUNCED ON: 19.06.2020

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

CRL.O.P.No. 8748 of 2020

A.Yesurajan

...Petitioner/A6

vs.

State represented by
The Inspector of Police,
E-4, Abiramapuram Police Station,
Chennai - 600 018. Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C., to enlarge the petitioner on bail in S.C.No.348 of 2015 on the file of the I Additional Special Judge, City Civil Court, Chennai.

For Petitioner : Mr.G.Murugendran

For Respondent : Mr.C.Iyyappa Raj
Additional Public Prosecutor

ORDER

The Petitioner, who is facing trial before the learned I Additional Special Judge, City Civil Court, Chennai for the offences punishable under Sections 307, 120(B), 341 and 302 IPC, seeks bail.

2.The contention of the petitioner is that the petitioner/A6 was initially granted bail. Thereafter, he was attending the trial. During the pendency of the trial, some of the witnesses filed petition stating that the petitioner as well as the other accused threatened them. Hence, the trial court cancelled the bail granted to the petitioner, against which the petitioner filed Criminal Revision before this Court and the other accused filed Criminal Original Petition. The revision of the petitioner before this Court was dismissed, confirming the cancellation of bail of the petitioner. Subsequently, the petitioner moved bail application before this Court and the same was also dismissed.

3.The contention of the petitioner is that the apprehension of the prosecution is the petitioner was threatening the witnesses is no more found, since the examination of all the witnesses in this case have been completed. After that the accused has been questioned under section 313 Cr.P.C, now the case is pending for

defence witnesses. The petitioner during investigation, was taken illegal custody by the respondent police, HCP was filed before the High Court against the illegal detention of the petitioner. Later the petitioner shown arrest. Now at the stage of the defence, the said petitioner in HCP as well as the HCP petition are to be examined and marked as defence witnesses and exhibits. For that purpose, the petitioner has to instruct his counsel effectively. Further, due to the closure of Courts and lockdown, the trial of the case is without progress and the petitioner has been unnecessarily detained. The petitioner is in prolonged confinement. The petitioner produced a typed set relying on the orders of this Court in CrI.O.P.Nos.6367 & 6472 of 2019, dated 11.04.2019 and CrI.O.P.No.33856 of 2019, dated 17.02.2020.

4.The Additional Public Prosecutor submitted that in this case, a gruesome murder for dispute over the property engaging hirelings has taken place. A1 to A4 were having civil dispute over the property with the deceased for very long time. The deceased is a doctor who was murdered in the public day light by engaging hirelings. A5 is the advocate who appeared for A1 to A4 in all cases. A6 is the friend/assistant of A5, the petitioner herein. A7 is the person who arranged assailants. A8, A9 and A10 are assailants in this case. Right from the beginning, the petitioner along with other accused has been threatening the witnesses and thereafter, on the complaint of the witnesses, the trial court had cancelled the bail. The petitioner challenged the same before this Court by filing revision and this Court confirmed the cancellation of bail and dismissed the revision. After that the petitioner and the other accused are in custody only thereafter, the trial of the case could proceed further. All the witnesses have categorically deposed against the accused. So far 88 witnesses have been examined. Examination of the witnesses on the side of the prosecution is completed. The accused were questioned under section 313 Cr.P.C and the case is now at the stage of defence.

5.The petitioner contention is that the High Court order copy of HCP has to be marked, for which the petitioner has to be let out on bail, is without any substance. Already there is office circular under Section 294 of Cr.P.C that the certified copy of the orders of the High Court can be marked in evidence. In view of the same, there is no impediment for the petitioner to mark the certified copy of the HCP if he so desires. If the petitioner is now let out on bail, the trial of the case would get stalled. The petitioner contention now put forth were already decided by this Court on earlier occasion and there is no change of circumstances to entertain this petition and strongly opposed the bail petition of the petitioner.

6.Considering the submissions and on perusal of earlier orders of this Court, wherein this Court had elaborately discussed and dealt the points raised by the petitioner now and finding no change of circumstances, this Court is not inclined to grant bail to the petitioner. The grievance of the petitioner to mark certified copy of HCP and its order can be done by marking it under Section 294

Cr.P.C.

-sd/-
19/06/2020

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 I ADDITIONAL SESSIONS JUDGE,
CITY CIVIL COURT, CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
E-4, ABIRAMAPURAM POLICE STATION,
CHENNAI-600 018.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI.

CC to M/S.G.MURUGENDRAN Advocate on payment of necessary charges

CRL OP.8748/2020

Date :19/06/2020

TA-09/11/2020

सत्यमेव जयते

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