



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 20/05/2020

PRESENT

The Hon'ble Dr.Justice G.JAYACHANDRAN

CRL OP(MD) . No.5358 of 2020

Balamurugan

... Petitioner/Accused

Vs

State Rep. by
The Deputy Superintendent Of Police,
Sivagangai,
Cr No.74/2012,
Sivagangai District.

... Respondent/Complainant

For Petitioner : M/s.S.Parthiban,
Advocate.

For Respondent : Mr.S.Chandrasekar,
Additional Public Prosecutor

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

PRAYER :-

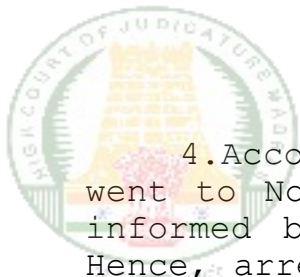
For Bail in Crime No. 74 of 2012 on the file of the respondent police

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

2.The petitioner was arrested and remanded to Judicial Custody on 12.03.2020 for the offences punishable under sections 342, 307 of I.P.C., and Sections 3(2)(v) of SC&ST (Prevention of Atrocities) Act 1989 in Crime No.74 of 2014 on the file of the respondent police.

3.The petitioner herein facing trial in Spl.S.C.No.61 of 2018 for the alleged offence under Sections 342, 307 of I.P.C., and Sections 3(2)(v) of SC&ST (Prevention of Atrocities) Act 1989, is before this Court seeking bail under Section 439 Cr.P.C.



4. According to the petitioner, when the case was pending he went to Northern State for his livelihood and he was not properly informed by his family members about the pendency of this case. Hence, arrest warrant issued against him on 03.12.2018 and the same was executed on 11.03.2020, when he returned his native forever permanently. Stating that he is ready to abide by any conditions and co-operate for the completion of trial, he seeks bail.

5. Per contra, the learned Additional Public Prosecutor would submit that this petitioner after being secured on 12.03.2020, approached trial Court for bail. Since bail petition in Crl.M.P.No.318 of 2020 was dismissed by the trial Court on 16.03.2020, he preferred appeal under Section 14(A) of SC/ST Act before this Court in Crl.A.(MD)No.153 of 2020. This Court on 20.04.2020, considering the entire facts has passed a detail order dismissing the appeal with a direction to the trial Court to complete the trial, within a period of six months from the date of receipt of the judgement copy. Therefore, there can be no further petition seeking bail.

6. In response to this contention, the learned counsel for the petitioner would submit that after dismissal of the Crl.A.(MD)No.153 of 2020 by this Court, the petitioner taking note of the change in circumstances, filed a fresh bail petition before the Special Court. After notice to the victim, the trial Court dismissed the bail petition despite the victim expressed no objection for granting bail. Hence, he has preferred the present petition.

7. Though he should have filed appeal under Section 14(A) of SC/ST Act the defect sought to be condoned treating this original petition as appeal.

8. Taking note of the attending circumstances and lock-down situation which has crippled the smooth function of the Court, this Court is of the view that change in circumstances, has entailed the petitioner to file fresh bail petition. Taking note of the consent given by the victim for granting bail, I am inclined to enlarge the petitioner on bail with certain conditions. Accordingly the petitioners are ordered to be released on bail by the Prison Superintendent on own bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) and the petitioner shall,

i) furnish with two sureties for likesum within one month from the date of release, to the satisfaction of the Special Court for SC/ST (POA) Act, Sivagangai and on further condition that,

ii) the petitioners shall report before the trial Court on every Monday till the disposal of the case.

<https://hcservices.courts.gov.in/hcservices> petitioners shall not tamper with evidence or witness.



iv) the petitioners shall not abscond during trial.

v) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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].

vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
20/05/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE JUDGE,
SPECIAL COURT FOR SC/ST (POA) ACT,
SIVAGANGAI.
2. THE DEPUTY SUPERINTENDENT OF POLICE,
SIVAGANGAI,
SIVAGANGAI DISTRICT.
3. THE OFFICER IN-CHARGE,
SUB JAIL, RAMNAD.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.5358 of 2020
Date :20/05/2020

GNS
TE/JC/SAR-II : 20/05/2020 : 3P/5C