

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2021

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRL.A.NO.528 OF 2020

Sivaraman @ Sivaramakrishnan

... Petitioner

Versus

1. State represented by
The Inspector of Police,
Thirubuvanai Police Station,
Puducherry. Crime No.40 of 2017
Investigated by CBCID Police Station,
Puducherry.

2. M.Gnanasekaran

... Respondents

PRAYER:

Criminal Appeal is filed under Section 14(A)(2) of SC/ST Act 1989 seeking to set aside the order passed by the learned Special Judge II Additional Sessions Judge, Puducherry, in Crl.M.P.No.200 of 2020 dated 09.12.2020 and enlarge the appellant on bail in S.C.No.19 of 2018 on the file of the learned Special Judge II Additional Sessions Judge, Puducherry.

For Petitioner : M/s.Preteik for
Mr.Swami Subramanian

For R1& R2 : No appearance

सत्यमेव जयते
O R D E R

This Criminal Appeal has been filed seeking to set aside the order passed by the learned Special Judge II Additional Sessions Judge, Puducherry, in Crl.M.P.No.200 of 2020 dated 09.12.2020 and enlarge the appellant on bail in S.C.No.19 of 2018 on the file of the learned Special Judge II Additional Sessions Judge, Puducherry.

2.The accused is arrayed as A5 in Spl.S.C.No.19 of 2018 on the file of the learned Special Judge, II Additional Sessions Judge, Puducherry. Though at the time of investigation, the petitioner got bail, subsequently, after investigation, charge

sheet has been filed and the learned Sessions Judge, after framing the charges, commenced trial. During the trial, the petitioner has not appeared before the trial court. However, since he was absconded and never appeared, Non Bailable Warrant was issued. Thereby, the petitioner was secured by the respondent police and produced before the Court. When the petitioner filed the application praying to grant bail, the learned Sessions Judge dismissed the same. Challenging the said order, the petitioner is before this Court by way of this criminal appeal.

3. The learned counsel for the petitioner submitted that after obtaining the bail, petitioner appeared through counsel and the counsel alone participated in the trial and no occasion arisen for the petitioner to appear. In such circumstances, because of this, Trial Court only dismissed the CrI.M.P.No.200 of 2020 viz., the bail petition on the ground that the petitioner was trying to stonewall the trial proceedings. But the petitioner never escaped or stonewalled the proceedings. Therefore, the order passed by the learned Sessions Judge is liable to be set aside and the petitioner may be granted bail.

4. The learned Government Advocate (Criminal Side) would submit that after obtaining bail, the petitioner himself absconded from appearing before the Court below. So that, the petitioner filed the petition under section 317 Cr.P.C and the same was dismissed and Non Bailable Warrant was issued. Even after issuing Non Bailable Warrant, the petitioner did not appear before the Trial Court even a single day and filed petition to recall of the warrant. Therefore the respondent police secured him and produced before the Trial Court. Considering the stage of the trial, it is evident that the Trial Court dismissed the petition for bail in order to expedite the trial. Therefore, there is no reason to interfere in the order of the trial Court.

5. Heard and perused the records.

6. Admittedly, a case was registered against the petitioner and others and the charge sheet was filed and the Magistrate also committed the case to the Sessions Court. A Special Court after framing charge, commenced the trial, but the petitioner did not appear and has not co-operated with the trial and not appeared before the Court even on one day. Therefore, under these circumstances, the Trial Court issued the warrant. Even after that, the petitioner has not appeared, but only the respondent police secured him and produced before the Trial Court. Now the trial almost come to the stage of finalization. Under these circumstances, if the petitioner is released on bail, there is possibility of the petitioner for absconding and

protracting the trial proceedings and the trial would be protracted. Therefore granting bail is a discretionary power of the Court and the learned Special Judge rightly exercised the said discretion.

7. Considering the facts and circumstances of the case and also the stage of the trial, this Court is not inclined to grant bail and therefore, criminal appeal is dismissed. The Sessions Judge is directed to complete the trial within a period of three months from today.

8. The Registry is directed to communicate the order to the Sessions Judge and the Sessions Judge is directed to complete the trial and send the compliance report before this Court. No extension of time will be entertained.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Judge,
II Additional Sessions Judge, Puducherry.
2. The Inspector of Police,
Thirubuvanai Police Station,
Puducherry.
3. The Public Prosecutor, Puducherry,
High Court, Madras.
4. The Section Officer,
Criminal Section,
High Court, Madras-104.

(Watching of the Compliance Report)

Cr1.A.No.528 of 2020

LN(CO)
CS/10/02/2021