



Crl.O.P No.19712 of 2022

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A.D.JAGADISH CHANDIRA, J.,

The petitioner, who was arrested and remanded to judicial custody on 08.11.2019 for the offences punishable under Sections 120(b), 302, 201 r/w 34 @ 302 of IPC of IPC, in S.C.No.270 of 2019 on the file of the learned Special Judge, EC Act Court, Salem, seeks bail.

2. The case of the prosecution is that the defacto complainant is the wife of the deceased Selvam. A1/Dhanasekaran loved the sister of A2/Gopi and married her and they belong to different caste. The deceased in the case viz., Selvam and Giri @ Krishnan used to tease and comment about the inter caste marriage to Gopi(A2) and commented in abusive manner. When it was informed to A1 by A2, A1 questioned deceased Selvam on 11.03.2009 at his residence, due to this there was wordy quarrel between them and deceased was threatened with dire consequences by the accused. Hence, A1 to A3 had motive to end the life of the deceased, therefore, they joined together at Nanjampatty Road, entered into a criminal conspiracy to commit the murder of the deceased Selvam and Giri @ Krishnan. Thereafter, all the accused



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made the deceased to consume liquor and after the consumption, the accused took the deceased to the nearby land and attacked indiscriminately and murdered them. Then A1 to A3 with the assistance of A4, took the bodies to the open place near the Ganesh College in an auto and caused disappearance of the evidence of the offence. Hence the complaint.

3. Learned Counsel for the petitioner would submit that this is the 5th application for bail. The earlier application for bail was dismissed on 11.04.2022, while this Court dismissing the earlier application had directed the trial Court to complete the trial as expeditiously as possible. Subsequently, this Court while dismissing the petitioner's bail application in Crl.O.P.No.998 of 2021 on 25.01.2021, had also directed the trial Court to strictly comply with the order dated 03.07.2020. Whereas, till date, there is no progress in the trial. Therefore, he prays for grant of bail to the petitioner.

4. The respondent has filed a status report. The relevant portion of the status is extracted hereunder:



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“ ...

9. *It is submitted that so far 17 witnesses have been examined as against 24 witnesses cited in the charge sheet.*

...

12. *It is submitted that the petitioner/accused(A1) is a habitual offender against whom there are 11 previous cases like 3 attempt to murder, 1 Arms Act, 1 robbery, 3 hurt cases, 2 extortion cases. After coming out on bail, he absented frequently from attending the Court for trial. Hence, the Court has issued N.B.W., on 4 earlier occasions viz., on 01.09.2015, 18.01.2016, 03.07.2017 and 31.07.2019 respectively. Finally, the petitioner(A1) was secured on P.T. Warrant, produced before the Court on 08.11.2019 and remanded to judicial custody until 15.11.2019. The remand period of the petitioner/A1 was extended periodically and finally until 22.09.2022. It is further submitted that petitioner's brother-in-law who is A2, was*



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also absconding from August 2018 and he was arrested on N.B.W., on 05.06.2020. Now, A2 is regularly attending the Court. As regards, A3 Kandasamy, he died on 01.01.2022. As far as A4 is concerned, he is facing trial in the Court of Juvenile Justice Board, Salem JC No.38 of 2021.

13. It is submitted that the bail petitions filed by the petitioner/A1 before the Hon'ble High Court, Madras in Crl.O.P.Nos.10063 of 2020, 998 of 2021 and 16224 of 2021 were considered and dismissed on 03.07.2020, 25.01.2021 and 07.08.2022, respectively.

...”

5. The learned Additional Public Prosecutor appearing for the respondent would submit that this is the 5th application for bail. This Court taking into consideration of the absconding nature of the accused on several occasions and getting arrested on 08.11.2019 pursuant to the non bailable warrant, had dismissed the earlier applications. He would also submit that the petitioner is notorious offender and he has history of absconding again



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and again and thereby, the case of the year 2009 is stretched for more than 13 years. He would further submit that as on date, the petitioner has filed an application to recall the prosecution witnesses and the case now stands posted to 22.09.2022 for appearance of the witnesses, however, since the post is vacant, the respondent are unable to proceed further. He would further state that the prosecution is ready to produce the witness on the particular date fixed for cross examination and the delay is not on account of the prosecution.

6. Heard learned Counsel and perused the materials available on record.

7. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel and the habitual absconding nature of the petitioner, this Court is not inclined to grant bail to the petitioner.

8. Accordingly, this Criminal Original Petition is dismissed. However,



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taking into consideration the long incarceration, the trial Judge, who is to

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take charge shall take every effort to complete the trial on day to day basis and deliver the Judgment within a period of six weeks from the date on which he assumes charge.

19.09.2022

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