



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Dated: 24/06/2022

PRESENT

The Hon'ble Mr.Justice **G.ILANGOVAN**

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Crl.OP(MD)Nos.9623 and 10820 of 2022

(1)Crl.OP(MD)No.9623 of 2022:-

1.Muthukrishnan

2.Satheesraja

: Petitioners/A7 and A8

Vs.

The State rep. By
The Inspector of Police,
Thalaiyuthu Police Station,
Tirunelveli District.
(Crime No.227 of 2021)

: Respondent/Complainant

For Petitioners : Mr.T.Lenin Kumar

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

For Intervenor : Mr.K.P.Krishnadoss

(2)Crl.OP(MD)No.10820 of 2022:-

Athisayam @ Athisayapandian

: Petitioner/Accused Rank No.9

Vs.

The State rep. By
The Inspector of Police,
Thalaiyuthu Police Station,
Tirunelveli District.
(Crime No.227 of 2021)

: Respondent/Complainant

For Petitioner : Mr.M.Pandian

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

For Intervenor : Mr.K.P.Krishna Doss

PETITIONS FOR BAIL under Sec.439 of Cr.P.C



COMMON PRAYER :-

For Bail in Crime No.227 of 2021 on the file of the Respondent Police.

COMMON ORDER : The Court made the following order:-

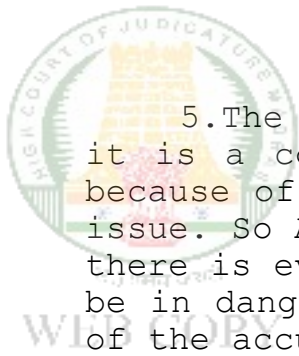
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The petitioners, who are arrayed as A7 and A8 were arrested on 22/04/2022 and A9 was arrested, on 30/07/2021 and remanded to judicial custody for the alleged offences under sections 147, 148, 302, 120(B), 506(ii), 109, 34, 212, 114 and 149 IPC, in Crime No.227 of 2021, seek bail.

2.The case of the prosecution is that the accused persons belong to a particular community and also A9 was a member of Tamil Nadu Karum Siruthaigal Makkal Iyyagam. On 23/04/2021, one Muthumano, who belongs to the present accused community person was murdered in Palayamkottai Central Prison, by another community people. The murder was committed by one Jacob and his associates. The above said Jacob is a friend of the accused Kannan. The above said Jacob was supporting financially and other aspects to the above said Kannan. The accused persons wanted to retaliate for the murder of Muthumano. So, they planned to murder the above said Kannan. On 02/07/2021 at about 8.00 am, all the accused persons conspired together and retaliatory murder of Muthumano, by killing the above said Kannan. In pursuance of the above said conspiracy, on 12/07/2021 at about 9.00 am, A9-Athisiyapandi came to the place of occurrence with aruval and was looking for the movement of the above said Kannan. A8 was driving a two vehicle along with A1. Similarly, another vehicle was driven by A7 along with A4 and another vehicle was driven by A5 along with A2. In another vehicle, A6 was driving with A3. A1 to A4 were hiding aruval and at about 12.00 noon, they found Kannan near Padarakulam. A1 caused head injury with aruval. A2 caused injury on the neck portion and A3 caused injury on the head, chest and left hand. A4 caused injury on the right leg and fled away from the place of occurrence. A1 provided shelter to all the accused persons, so also A15. With the above said allegations, final report was filed and also taken cognizance in SC No.26 of 2022 by the Additional Sessions Judge, Tirunelveli.

3.Seeking bail, A7, A8 and A9 moved separate bail applications on the ground that A7 and A8 were implicated in this case, only based upon the confession statement of the co-accused. They were detained under Act 14 of 1982 and that was challenged in HCP Nos.1275 and 1282 of 2021. That was allowed and the detention order was quashed, on 29/03/2022. They are in custody for more than eight months. A9 says that he was also implicated only based on the confession statement of the co-accused and he is in custody for more than 318 days.

4.From the narration of the above said facts, it is seen that
<https://hcservices.courts.gov.in/hcservices> use of retaliatory murder.



5.The learned Additional Public Prosecution would submit that it is a communal clash between two caste people in that area and because of that, more 15 murders took place because of the communal issue. So According to him, if the petitioners are released on bail, there is every likelihood of them absconding and their life may also be in danger. It is also stated that because of the non-cooperation of the accused persons, the trial could not be commenced so far. The accused persons, in rotation are absent themselves from the trial, causing very difficulty for the police to produce the witnesses.

6.But however, the learned counsel appearing for the petitioners would submit that absolutely, except the confession statement of the co-accused, no other materials are available against the petitioners. Act 14 that was invoked against A7 and A8 was quashed by this court and they are in custody for more than several months. When serious allegation of communal clash and retaliation is alleged, in the interest of society at large, I am of considered view that the petitioners must face the trial in custody. The overtacts that have been attributed against these petitioners can be a matter for consideration by the trial court at the time of trial. 7.Perusal of the CD file shows that A10 after obtaining bail, absconded, so also A11. A12 and A14, who are enlarged on bail, again committed the offence punishable under section 307 IPC. So this also shows that as contended by the learned Additional Public Prosecutor, because of the non-cooperation of the accused persons, the trial process hampered. The offence is of the year 2021. Even after a lapse of more than a year, trial has not commenced.

8.In view of the above fact, I am of the considered view that the petitioners must face the trial in custody. Apart from that, it is also submitted by the learned Additional Public Prosecutor and the learned counsel appearing for the Intervenor that against A9 and A15 previous cases are pending. The list shows that most of the cases are, either murder cases or assault, robbery and attempt of murder, etc. NBW is also pending. It appears to be history sheet. A person of such a character is not entitled for bail.

9.Considering the gravity of the offence as well as the antecedents of the petitioner and the circumstances under which the offences said to have committed, I am of the considered view, as mentioned earlier, the petitioners are not entitled for bail.

10.Accordingly, these criminal original petitions deserve dismissal and they are **dismissed**.

sd/-
24/06/2022

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29/06/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1.The Inspector of Police,
Thalaiyuthu Police Station,
Tirunelveli District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1. CC to M/S.K.P.KRISHNADOSS, Advocate SR.No.28214 (F)

ORDER
IN
Crl.OP (MD) Nos.9623 and
10820 of 2022
Date :24/06/2022

RK/SVR/SAR-I/29.06.2022 : 4P/4C