



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Reserved on : 08.06.2022
Delivered on : 09.06.2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.9864 of 2022

WEB COPY

E.Ravishankar

... Petitioner/Accused No.2

Vs

State Rep.by
The Inspector of Police,
CBCID Tuticorin District.
(In the matter of South PS
Crime No.11 of 2012,
Tuticorin, Tuticorin District.)

... Respondent/Complainant

K.Vijaya

... Petitioner/Defacto-Complainant

For Petitioner : Mr.KA.Ramakrishnan,
Advocate.
For Respondent : Mr.P.Kottaichamy,
Government Advocate(Criminal Side)
For Intervenor : Mr.Shaji Chellan,
Advocate.

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

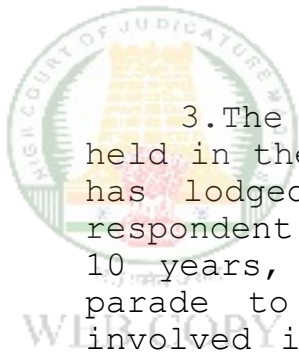
PRAYER :-

For Bail in Crime No.11 of 2012 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/A.2, who was arrested and remanded to judicial custody on 01.04.2022 for the offences punishable under Sections 506 (ii) IPC and 3 of Explosive Substances Act @ 120 (B), 506(ii) IPC r/w 109 IPC and 3 of Explosive Substances Act, 1908, in Crime No.11 of 2012, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner/A2 and the first accused in pursuance of conspiracy with the other accused had hurled petrol bomb into the house of the defato complainant on 06.01.2012 at about 10.00 pm and thereby caused head injury to the defacto complainant and also caused criminal intimidation that if her husband had taken any action against the Advocates, they would kill them.

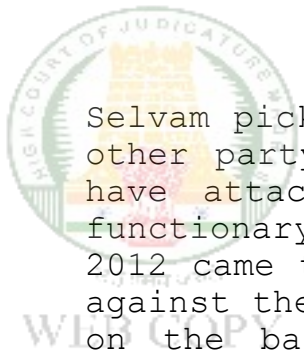


3.The petitioner's case is that the occurrence alleged to have held in the year 2012, almost 10 years earlier; that the complainant has lodged the complaint against the unnamed persons; that the respondent Police even after taking custody of the petitioner after 10 years, have not taken any steps to conduct an identification parade to identify whether the petitioner was the real person involved in the alleged occurrence and that the respondent Police without proceeding in that direction, has implicated the petitioner falsely on the basis of the statement taken from some third person, which is not acceptable.

4.The petitioner's further case is that the respondent has been proceeding with the investigation on the basis of the confession alleged to have taken from the petitioner; that the petitioner has not given any confession voluntarily; that though 60 days got lapsed; they have not made alteration or addition of facts; that the vehicle alleged to have been used has not been recovered; that since it is a case of 10 years old, the question of hampering or tampering of witnesses does not arise at all; that the petitioner is a law abiding citizen and he will not abscond or evade due process of law and that therefore, he may be granted bail.

5.The defacto complainant/Intervenor has filed intervening petition, raising serious objections to release the petitioner. The case of the defacto complainant is that huge extent of lands owned by farmers in Deivaseyalpuram Village was illegally grabbed by land mafia in 2008; that the farmers unable to resist the illegal grabbing of their land, have approached the Secretary of Communist Party of India (Marxist) Mr.K.Kanagaraj, who is the husband of the defacto complainant and the CPI(M) Party decided to help the farmers to get rid of the land grabbing issue; that the said Party has sent representations to various authorities and requested their intervention in the matter; that the land grabbers utilized all the illegal means for threatening the poor farmers and in that process so many criminal cases came to be lodged against the farmers as well as the land grabbers.

6.It is the further case of the defacto complainant that one Mrs.Saraswathi, gave a complaint against the Advocate Selvam @ Pudukkottai Selvam on 25.12.2011, which was registered in Crime No.569 of 2011 by the Pudukkottai Police Station, Tuticorin District, wherein she claimed that the fencing wires were stolen by the above said Selvam @ Pudukkottai Selvam and requested the Police to take action on her complaint, that the Police started investigation and in order to stall the investigation, the said Selvam influenced the Tuticorin Bar Association to go on for boycott of Courts on 05.01.2012 and 06.01.2012; that the defacto complainant's husband Kanagaraj made an appeal to the Advocates Fraternity through a pamphlet describing the events and the injustice done to the village people by land mafia; that while distributing the pamphlets to the
Advocates of the Advocates who are close with the accused



Selvam picked up quarrel with the defacto complainant's husband and other party members, that the accused Selvam, Haridoss, and others have attacked the defacto complainant's husband and other party functionary inside the Court premises and a case in Crime No.9 of 2012 came to be registered; that Advocate Haridoss gave a complaint against the defato complainant's husband and other party members and on the basis of which, FIR in Crime No.8 of 2012 came to be registered, that the Advocates of Tuticorin Bar Association staged a road blockade in front of the District Court for which, another case in Crime No.3 of 2012 was registered and that on 06.01.2012 itself a petrol bomb was hurled at defacto complainant's house in the night hours at about 10.00 pm, that the bottle, which has explosive substances was thrown inside the house of the defacto complainant, which hit the defacto complainant's forehead and dashed in the floor and spread over and that two persons who had thrown the petrol bomb through the window, have escaped in a motor cycle.

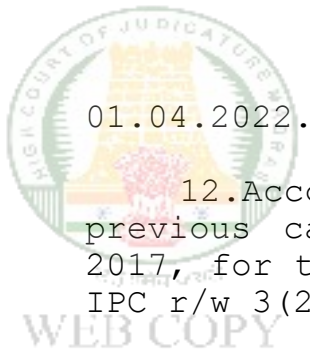
7.It is pertinent to note that though the above case was registered by the South Police Station, Tuticorin, the said case was transferred to the respondent police and that in the course of investigation, allegedly they got a break through in their investigation and on that basis, they have arrested the present petitioner and got a confession statement from him.

8.The learned counsel for the defacto complainant/Intervenor would submit that A4 is a practicing Advocate; that the first accused is working under fourth accused; that the fourth accused suppressing the material facts, has obtained orders for anticipatory bail in Crl.OP(MD)No.8546 of 2022, dated 06.05.2022; that the defacto complainant has already moved before the Hon'ble Supreme Court for cancellation of anticipatory bail given to the fourth accused and is pending and that since the petitioner is having 12 previous cases, is not entitled to be enlarged on bail.

9.As rightly pointed out by the learned counsel for the intervenor, the learned Judge of this Court in Crl.O.P(MD)No.8546 of 2022, taking note of the delay in registering the complaint, has held that the 4th accused is entitled to get for anticipatory bail.

10.But, as rightly contended by the learned counsel for the Intervenor, FIR came to be registered in Crime No.11 of 2012 on 07.01.2012 and the petitioner was arrested on 01.04.2022 and that therefore, the fourth accused has been granted anticipatory bail by this Court.

11.The learned counsel for the Intervenor would submit that this Court by mainly observing that there was a delay in registering the complaint came to the decision that the fourth accused was entitled to get anticipatory bail. But as rightly pointed out by the learned Additional Public Prosecutor, FIR came to be registered in Crime No.11 of 2012, but the petitioner herein was arrested only on



01.04.2022.

12. According to the prosecution, the petitioner is having 15 previous cases, which includes a murder case in Crime No.337 of 2017, for the offence under Sections 147, 148, 448, 302 and 506 (ii) IPC r/w 3(2)(v) SC/ST (POA) Act.

13. The learned counsel for the petitioner would submit that all the above cases referred by the prosecution, were already disposed of and that the case registered by the Pallikaranai Police Station in Crime No.337 of 2017, is pending.

14. Simply because the petitioner was arrested after 10 years since the registration of FIR, the same cannot be taken as a valid or sufficient ground to enlarge the petitioner on bail. Though the FIR was registered as early as in the year 2012, after transfer of investigation, they have got a break through in the year 2021 and on that basis, the petitioner was arrested on 01.04.2022 and on coming to know about the same, the fourth accused Advocate has approached this Court and got anticipatory bail.

15. As already pointed out, Special Leave Petition at the instance of the defacto complainant is pending before the Hon'ble Supreme Court.

16. Considering the seriousness and gravity of the offence alleged and also the facts that the way in which, petrol bomb was hurled at the house of the defacto complainant and the way in which, they were intimidated criminally, that one other accused is yet to be secured and that the investigation is pending as stated by the learned Government Advocate (Criminal Side), this Court is not inclined to grant bail to the petitioner at this point of time.

17. In the result, the Criminal Original Petition is dismissed.

sd/-

09/06/2022

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13/06/2022

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

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



TO

1 THE INSPECTOR OF POLICE
SOUTH POLICE STATION,
CBCID THOOTHUKUDI DISTRICT.

2 THE OFFICER INCHARGE,
DISTRICT PRISON, PERURANI,
TUTICORIN DISTRICT.

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.KA.RAMAKRISHNAN, Advocate (SR-5331[I] dated 09/06/2022)

ORDER

IN

CRL OP(MD) No.9864 of 2022

Date :09/06/2022

RS/PN/SAR.2 (13.06.2022) 5P-5C