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

Date : 26/06/2023

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD) . No.10764 of 2023

1. Selvaraj
2. Anthoniraj @ Prabhakaran
3. Philips @ Arulphilpraj ... Petitioners/Accused 1, 2 & 3

Vs

The State Rep.by
The Inspector of Police,
Tirunelveli Taluk Police Station,
Tirunelveli District.
In Crime No.56 of 2022.

... Respondent/Complainant

For Petitioners : M/s.K.Suyambulinga Bharathi
for M/s.Sundarapandian.S,
Advocate.
For Intervenors : Mr.PaulKanagaraaj
Mr.A.Sivasubramanian
Advocates
For Respondent : Mr.R.M.Anbunithi,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.56 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners /A1 to A3 who were arrested and remanded to judicial custody on 10.03.2022 for the offences under sections 147,148,294(b),302 and 506(ii) of IPC in Crime No.56 of 2022 on the file of the respondent police seek bail.



2. The case of the prosecution is that in the year 2016, Rajan and his wife Leela @ Selva Leela and their sons, namely, Selvaraj/A1, Prabakaran/A2 and Philip/A3 have attempted to murder one Perumal and in this regard, the de-facto complainant's brother namely, Vaigundam lodged a complaint before the respondent police and FIR was registered in Crime No.78 of 2016. During the trial, the said accused persons threatened the witness/de-facto complainant stated that he should not give evidence in the Court. Further on 03.03.2022, the said Vaigundam gave evidence in chief against the said accused persons. On 10.03.2022, when the said Vaigundam was about to attend the Court for cross examination at about 09.45 hours, all the accused persons murdered him. Hence, the case came to be registered.

3. Heard both sides and perused the materials available on record including the First Information Report.

4. The learned counsel for the petitioners would submit that this is the third application for bail. There are totally eight accused in this case and the petitioners herein are arrayed as A1 to A3. Some of the co-accused were granted bail by this Court. The petitioners bail application was dismissed on the ground that they failed to cross examine the prosecution witnesses and now the petitioners have cross examined the witnesses and the case stands posted on 03.07.2023 for examination of other witnesses. However for one reason or another the trial has not proceeded. The petitioners are in judicial custody from 10.03.2022. Whatever the cases foisted against the petitioners are after the registration of the present case in S.C.No.314 2022 in which the petitioners are facing trial for the offence under section 307 of IPC. He would further submit that between family members counter complaint was also registered as against the deceased and others. While pending trial both of them entered into compromise and they agreed to turned hostile before the trial court. However while deposing in S.C.No.57 of 2018, deposed against the petitioners and failed to oblige the compromise entered between them. This Court has also granted bail to the petitioners and sentence was also suspended by the trial Court. Further the petitioners are also standing on the same footing and seek the rule of parity.

5. The learned counsel for the intervenor would submit that the petitioners have murdered P.W.1 in S.C.No.57 of 2018 who deposed in the case as against the petitioners. After deposing in chief he was murdered by the petitioners and others. That apart even in the present case L.W.3 was examined as P.W.3 and he was threatened that he will be murdered. Therefore First Information Report came to be registered in Crime No. 622 of 2022 on the file of the Palayamkottai Police Station, Tirunelveli District. That apart only because of non examination of prosecution witnesses the case has been pending from 2022. Now all the witnesses have been examined and the case



stands posted to examination of Investigation Officer, the: re
vehemently objected to grant bail to the petitioners.

6. The learned Additional Public Prosecutor would submit that the petitioners and other accused have murdered the witness who has deposed against them before the trial Court that too after chief examination. All the accused persons were convicted in S.C.No.57 of 2018 for the offence under section 307 of IPC. That apart even in the present case L.W3 was threatened by the accused persons who was examined as P.W.3 by the other accused persons who were engaged by these petitioners, hence he seeks dismissal of the petition and sought for speedy disposal of the case.

7. It is seen that there are totally eight accused in this case and the petitioners herein are arrayed as A1 to A3. Though other accused were granted bail, earlier application for bail was dismissed by this Court. However the petitioners now cross examined the prosecution witnesses and the case is at the fag end of the trial. Now all the witnesses have been examined and the case stands posted to examination of Investigation Officer on 03.07.2023. It is also seen that one of the witness who deposed against the petitioners was murdered by the petitioners namely P.W.1 in S.C.No.57 of 2018 that too after chief examination., thereafter the witness who deposed against the petitioners was murdered by the petitioners. That apart in the present case L.W.3 who was examined as P.W.3 was also threatened and attempted to do away the life, therefore First Information Report was registered in crime No.622 of 2022 was registered on the file of the Inspector of Police, Palayamkottai Police Station, Tirunelveli District and it is pending investigation, hence this Court is not inclined to grant bail to the petitioners.

8. In the result, the petition stands dismissed.

9. Section 7(m) of Witness Protection Scheme 2018 ensures expeditious recording of deposition during trial on a day to day basis without adjournments.

10. In view of the same, there shall be a direction to the trial Court to dispose the case the case S.C.No.314 of 2022 with a period of one month from the date of receipt of a copy of this order on day to day basis without any adjournments.

sd/-
26/06/2023

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/07/2023

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



TO

1 THE IV ADDITIONAL SESSIONS JUDGE, TIRUNELVELI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI, TIRUNELVELI.

3 THE INSPECTOR OF POLICE
TIRUNELVELI TALUK POLICE STATION,
TIRUNELVELI DISTRICT.

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

COPY TO:
THE REGISTRAR(JUDICIAL),
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.R.C.PAUL KANAGARAJ, Advocate (SR-9539[I] dated
26/06/2023)

ORDER
IN
CRL OP(MD) No.10764 of 2023
Date :26/06/2023

AAV
MK/07.07.2023 4P 7C