



Crl.OP(MD)No.14215 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.OP(MD)No.14215 of 2024

Saronraj @ Nagaraj

: Petitioner/ Accused No.1

Vs.

State Rep. by
The Inspector of Police,
Dindigul Town South Police Station,
Dindigul.

SC.No.132 of 2022 in Crime No.269 of 2016

: Respondent/ Complainant

PRAYER: Petition filed under Section 483 BNSS / 439 CrPC seeking bail in respect of SC.No.132 of 2022 in Crime No.269 of 2016 on the file of the Additional District Court, Dindigul.

For Petitioner : Mr.P.Manikandan, Advocate

For Respondent : Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)

ORDER

The petitioner / first accused in Crime No.269 of 2016 on the file of the respondent Police registered for the offence u/s.294(b), 323, 324, 302 IPC @ 342, 323,



Crl.OP(MD)No.14215 of 2024

506(ii), 302 r/w 34 IPC, has filed this application seeking bail. In this case, the investigation has been completed and it has been committed to the Additional District Court, Dindigul in SC.No.108 of 2016. The petitioner / first accused was absconding and therefore, the case was split up against the petitioner and pending in SC.No.132 of 2022.

2.This is the second application filed by the petitioner seeking bail. The earlier application filed by him in Crl.OP(MD)No.4390 of 2024 was dismissed by this Court on 02.04.2024, considering the objections raised by the learned Additional Public Prosecutor that this petitioner was absconding in the murder case for a period of four years and that one of the eye witnesses to the case was murdered. While dismissing the earlier bail application, this Court directed the trial Court to examine the eye witnesses within three months and also granted liberty to this petitioner to renew the bail application. Hence, the petitioner has now filed this second bail application.

3.Learned Counsel for the petitioner submitted that all the eye witnesses in the case in SC.No.132 of 2022 were already examined and that the official witnesses alone have to be examined. He further submitted that the occurrence had taken place on a sudden provocation and this petitioner is languishing in the prison for more than a



Crl.OP(MD)No.14215 of 2024

year from 21.06.2023. He further submitted that the trial in the original case in SC.No.108 of 2016 was completed and the fourth accused was acquitted by the trial Court, by judgment dated 07.01.2023. Therefore, he prayed for bail.

4.Learned Government Advocate (Crl. Side) raised serious objections for grant of bail to this petitioner that he is the main accused (A1) and he was absconding in this case from 01.12.2020. Therefore, the case as against him was split up. The petitioner and his associates have murdered one Kathar Ali, who is the LW1 in this case, on 04.09.2017, for which, another case was registered in Crime No.373 of 2017, for the offence u/s.147, 148, 341, 294(b), 307 IPC @ 147, 148, 341, 294(b), 302 r/w 149 IPC. This case in Crime No.373 of 2017 was also charge sheeted and taken on file by the learned Judicial Magistrate, Dindigul, in PRC.No.1 of 2018. However, it is still pending for committal for the past six years, since one after the other accused are absconding.

5.The petitioner and the other accused in a murder case [in Crime No.269 of 2016] have committed another murder by eliminating LW1 in the said case, for which, another case was registered in Crime No.373 of 2017. This second case registered in Crime No.373 of 2017 is also pending at the stage of committal



Crl.OP(MD)No.14215 of 2024

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proceedings in PRC.No.1 of 2018 for the past six years. It appears that the petitioner was arrested on 21.06.2023. It is not known as to why the case has not been committed, even after the arrest of the petitioner. Therefore, this Court, by earlier order dated 06.09.2024, called for a report from the Judicial Magistrate No.III, Dindigul as to the reasons for non-committal of the case in PRC.No.1 of 2018 from the year 2018 and also a report from the Inspector General of Police, South Zone, Madurai, in this regard.

6.Learned Judicial Magistrate No.III, Dindigul, has filed a report stating that the accused, one after another, were absconding and therefore, the case was not committed. She further submitted that steps have now been taken and the case has been committed to the Court of Sessions on 09.09.2024, with a direction to the accused to appear before the Sessions Court on 21.09.2024.

7.The Inspector General of Police, South Zone, in his report has stated that PRC.No.1 of 2018 could not be committed because of non-appearance of the accused and the repeated filing of petition u/s.317 CrPC. The Inspector General of Police has also enclosed the diary extracts of the Court of Judicial Magistrate No.III in PRC.No.1 of 2018.



Crl.OP(MD)No.14215 of 2024

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8.Perusal of the diary extract reveals that the concerned Magistrate was very liberal in considering the application filed u/s.317 CrPC. The accused have repeatedly filed petitions u/s.317 CrPC and they were also considered in a mechanical manner, without having any concern to the nature of case in PRC.No.1 of 2018 [Crime No.373 of 2017], which was registered for the murder of LW1 in Crime No.269 of 2016.

9.Nearly after six years, the case has now been committed, only after this Court has raised some queries. It is not known as to when the trial would commence in this case; whether the accused would be available for the trial; and whether the trial would be concluded within a reasonable time. Even the case for the first murder committed by the petitioner in Crime No.296 of 2016 is still pending in SC.No.132 of 2022 [originally SC.No.108 of 2016]. It appears that after the elimination of LW1, one of the accused in SC.No.108 of 2016 has got an acquittal and the petitioner has now taken it as a ground for grant of bail. If this is how the trials are conducted, naturally, then all the accused have to be acquitted and no witness would come forward to depose as against the accused.



Crl.OP(MD)No.14215 of 2024

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10. Mere registering of a case and filing of final report is not enough. The respondent Police shall also ensure that the witnesses are protected and that the witnesses depose before the Court without any fear or threat. In this case, the blame should not be fastened on the respondent Police alone. The Judiciary has, equally, failed in its duty by not committing the second case for the past six years. The concerned Magistrates, who dealt with the case in PRC.No.1 of 2018, were very liberal in considering the applications filed u/s.317 CrPC. Because of this conduct of the Magistrates in entertaining this application in such a manner, the second murder case in Crime No.373 of 2017, which was charge sheeted in the year 2018, was kept pending without any committal till 2024. The Magistrates must realize that the Court is also having certain responsibility and duty towards the victims.

11. An eye witness in a murder case was murdered, for which, the learned Magistrate has delayed the committal proceedings for over a period of six years. If this is the state of affairs, then no witness would have the moral courage to appear before the Court during the trial and depose as against the accused. This needs to be addressed.



Crl.OP(MD)No.14215 of 2024

WEB COPY

12.The Superintendent of Police, during their weekly / monthly review meetings, ought to have followed-up the long pending cases, which are at the stage of PRC and at trial. The Superintendent of Police has failed in his duty and therefore, this Court, instead of calling for a report from the concerned Superintendent of Police, has directed the Inspector General of Police, South Zone, to file a report for the delay in committal proceedings in PRC.No.1 of 2018. The Inspector General of Police has realized the deficiency on their part and has also submitted before this Court that all the Sub Divisional Officers are directed to review the PRC stage pending cases and to ensure committal of those cases. He has also stated that in cases of NBWs pending, special teams will be formed to nab the absconding accused. This Court places its appreciation to the Inspector General of Police, South Zone, for the initiative taken to ensure that there will not be any further delay in the committal proceedings in any case.

13.When we are blaming the investigation agency that they are not executing the warrants in time, we have to accept our mistake in entertaining the petitions filed u/s.317 CrPC in a causal manner, that too, at the stage of committal / trial. In any event, the Police have now responded and assured that this type of delay would be avoided in future. Similar steps have to be taken by the Judiciary also. Therefore, the



Crl.OP(MD)No.14215 of 2024

WEB COPY

Registrar General, Madras High Court, is directed to call for an explanation from the concerned Magistrates, who have dealt with the case in PRC.No.1 of 2018 from 22.10.2018 till 25.03.2024.

14.The Registrar General, Madras High Court, shall also issue a Circular to all the Judicial Magistrates to handle the petitions filed u/s.355 BNSS [317 CrPC] during the committal proceedings with certain responsibility, or otherwise, necessary actions would be initiated as against the concerned Magistrates. The Registrar General shall also remind the Magistrates about the provisions u/s.232 BNSS that the committal proceedings has to be concluded within a period of ninety days [in exceptional cases – 180 days].

15.Though this Court has permitted the petitioner to renew this application after the examination of the eye witnesses, from the report of the Inspector General of Police, South Zone, it appears that some more witnesses are yet to be examined in Crime No.269 of 2016. Considering the manner in which the eye witness in Crime No.269 of 2016 was eliminated and the conduct of the accused in evading the committal proceedings in the second case in PRC No.1 of 2018 [Crime No.373 of 2017] for the past six years, this Court is not inclined to grant bail to this petitioner in



Crl.OP(MD)No.14215 of 2024

SC.No.132 of 2022 in Crime No.269 of 2016.

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Accordingly, this criminal original petition stands dismissed.

sd/-
26/09/2024

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26/09/2024
Sub-Assistant Registrar (PA-I/ AD-I)
Madurai Bench of Madras High Court,
Madurai - 625 023.

gk

To

- 1.THE ADDITIONAL DISTRICT JUDGE, DINDIGUL.
- 2.THE JUDICIAL MAGISTRATE NO.III, DINDIGUL,
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, DINDIGUL.
- 4.THE INSPECTOR OF POLICE,
DINDIGUL TOWN SOUTH POLICE STATION, DINDIGUL.
- 5.THE OFFICER IN CHARGE,
DISTRICT JAIL, DINDIGUL.
- 6.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE REGISTRAR GENERAL,
MADRAS HIGH COURT, CHENNAI.



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Crl.OP(MD)No.14215 of 2024

ORDER IN
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Date :26/09/2024

RK (26/09/2024) 10P / 8C

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