IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1250/2022
[@ SLP [CRL.] NO.4655/2022]

S. MURUGAN @ MURUGA   Appellant(s)

VERSUS

THE STATE OF ANDHRA PRADESH & ANR.   Respondent(s)

O R D E R

On 17.11.2015, almost seven years back, an incident occurred where the assailants entered the office of the Mayor in Chittor District along with a pistol by wearing mask and trespassed into the Chambers of the Mayor during day time and committed the murder of the Mayor and shot her dead with a point blank range with a pistol. After threatening officials, the assailants escaped from the scene. Charge sheet has already been filed and the trial is going on.

We may note that the role assigned to the appellant before us is that he was sitting besides the driver in the vehicle where the assailants escaped.

On 19.07.2022, A-2, undisputedly the principal

accused, was granted bail by the High Court. On 01.08.2022, we issued notice to the State to obtain instructions about the same more so, in view of the role assigned to the appellant in facilitating the escape of the persons who assaulted the deceased.

The aforesaid fact is accepted.

The complainant/injured witness was impleaded in the present proceedings as second respondent on 20.05.2022. The counsel for the complainant/injured witness strongly opposes the grant of bail. It is his submission that though A-2 may have been granted bail, the complainant/injured witness has filed an application seeking cancellation of the bail on account of threat to the witnesses, protraction of the trial by the accused and it is his say that the entire gamut of the facts were not before the Court when A-2 was granted bail. That the appellant should not be granted bail merely on account of parity with A-2 more so, when the the application for cancellation of bail is pending consideration.

On hearing learned counsel for the parties, we may notice that there is something in what the learned counsel for the complainant/injured witness says, i.e. the appellant should not be enlarged on bail merely on account of parity with A-2. We have thus considered the role of the appellant.

Learned counsel for the complainant/injured

witness has much to say even about the role of the appellant but we would have to look to the charge sheet to see that with what is charged with. He has been roped in along with other accused on account of conspiracy and the fact that he was sitting in the vehicle in which the assailants escaped. Now, the most material aspect is that the appellant before us has been in custody for almost 7 years, the trial has not proceeded albeit on report of the trial Court more specifically directed qua the manner in which A-1 is not letting the trial proceed. The High Court has directed the trial to proceed expeditiously.

We are troubled by the fact that seven years after the incident the prosecution witnesses have not been examined and the trial is yet to commence. This is completely unacceptable. Time lag creates its own problems in the testimony of the witnesses more so the eye witnesses.

It is the duty of the prosecution to ensure that the prosecution witnesses are available and it is the duty of the trial Court to ensure that none of the parties is permitted to protract the trial.

We are thus, of the view that the trial Court must control the dilatory tactics of any of the parties and all steps must be taken to ensure that

post trial, the judgment of the trial Court is available within a period of one year from the date of the communication of this order.

We are however, inclined to grant bail to the appellant considering the role ascribed to the appellant in the charge sheet and the total period spent in custody. Ordered accordingly. This is subject to such conditions that the trial Court may impose. We in addition make it clear that the appellant would be required to be present personally before the trial Court on all dates and would facilitate in the trial. If the trial Court finds that the appellant is endeavouring to delay the trial, or thereafter temper with the evidence, we authorize the trial Court to cancel the bail and put the appellant in custody.

Insofar as the application for cancellation of bail of A-2 is concerned, we make it clear that the same will be decided on its own merits and the order passed today would not in any manner facilitate A-2 in those proceedings.

The appeal is allowed in terms aforesaid leaving the parties to bear their own costs.

……………………………………….J.
[SANJAY KISHAN KAUL]

……………………………………….J.
[M.M. SUNDRESH]

NEW DELHI;
AUGUST 16, 2022.

ITEM NO.21   COURT NO.4   SECTION II

             S U P R E M E   C O U R T   O F   I N D I A
                    RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 4655/2022

(Arising out of impugned final judgment and order dated 23-03-2022
in CRLP No. 1050/2022 passed by the High Court Of Andhra Pradesh At
Amravati)

S. MURUGAN @ MURUGA   Petitioner(s)

                          VERSUS

THE STATE OF ANDHRA PRADESH & ANR.   Respondent(s)

(FOR ADMISSION and I.R.)

Date : 16-08-2022 This petition was called on for hearing today.

CORAM :
        HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
        HON'BLE MR. JUSTICE M.M. SUNDRESH

For Petitioner(s)   Mr. Dama Seshadri Naidu, Sr. Adv.
                     Mr. Pai Amit, AOR
                     Ms. Ranu Purohit, Adv.
                     Ms. Shivali Chaudhary, Adv.
                     Ms. Pankhuri Nbhardwaj, Adv.
                     Mr. Siddharth Chapalgaonkar, Adv.
                     Mr. Abhiyudaya Vats, Adv.

For Respondent(s)   Mr. S. Niranjan Reddy, Sr. Adv.
                     Mr. Mahfooz Ahsan Nazki, AOR
                     Mr. Polanki Gowtham, Adv.
                     Mr. Shaik Mohamad Haneef, Adv.
                     Mr. T. Vijaya Bhaskar Reddy, Adv.
                     Ms. Rajeswari Mukherjee, Adv.
                     Mr. K.V. Girish Chowdary, Adv.
                     Ms. Akhila Palaem, Adv.
                     Mr. Abhishek Sharma, Adv.
                     Mr. Sahil Raveen, Adv.

                     Mr. Yelamanchili Shiva Santosh Kumar, Adv.
                     Mr. Rudrajit Ghosh, Adv.
                     Mr. Tarun Gupta, AOR
                     Mr. Abhishek Sharma, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appellant is granted bail considering the role ascribed to him in the charge sheet and the total period spent in custody.

The appeal is allowed in terms aforesaid leaving the parties to bear their own costs.

[CHARANJEET KAUR]   [POONAM VAID]
ASTT. REGISTRAR-cum-PS   COURT MASTER (NSH)

[Signed order is placed on the file]