

OUT TODAY

ITEM NO.19

COURT NO.4

SECTION II-C

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 (Cr1.) No(s).5195-5196/2019

(Arising out of impugned final judgment and order dated 30-04-2019 in CRLOP No. 6462/2019 16-05-2019 in CRLMP No. 4654/2019 passed by the High Court Of Judicature At Madras At Madurai)

M.D. DHANAPAL

Petitioner(s)

VERSUS

STATE REP. BY THE INSPECTOR OF POLICE

Respondent(s)

(FOR ADMISSION and I.R. and IA No.87559/2019-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.87560/2019-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

Date : 11-06-2019 These petitions were called on for hearing today.

CORAM :

**HON'BLE MS. JUSTICE INDIRA BANERJEE
HON'BLE MR. JUSTICE AJAY RASTOGI
(VACATION BENCH)**

**For Petitioner(s) Ms. Meenakshi Arora, Sr. Adv.
Mr. Jagjit Singh Chhabra, AOR
Mr. S.S. Bhel, Adv.
Mr. Saksham Maheshwari, Adv.
Mr. Inderpal Singh, Adv.**

**For Respondent(s) Ms. Meha Ashok Aggarwal, Adv.
Mr. S. Parthasarathi, Adv.
Mr. M. Yogesh Kanna, AOR**

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

**These special leave petitions are against
the orders dated 30.04.2019 and 16.05.2019 passed
by the High Court of Madras (Madurai Bench) in
Cr1.O.P.(MD) No.6462 of 2019 and Cr1.M.P.(MD)**

No.4654 of 2019 respectively.

On 21.04.2019, on the occasion of the Chithra Pournami festival about seven pilgrims were killed and 10 injured in a stampede outside the temple of Lord Sri Vaalavaikkum Vandithurai Karuppannasamy at Muthiyampalayam Village in Tiruchirapalli District, Tamil Nadu.

By the impugned order dated 30.04.2019, the High Court granted bail to the petitioner, M.D. Dhanapal, the Chief Priest of Lord Sri Vaalavaikkum Vandithurai Karuppannasamy Temple at Muthiyampalayam Village, Thuraiyur Taluk, Tiruchirapalli, who had been arrested pursuant to an F.I.R. in connection with the accident, on condition that he would pay Rs.10,00,000/- (Rupees ten lakhs only) each by bank drafts in the name of one of the family members/legal heirs of each of the deceased pilgrims who had come to the temple in connection with some of the temple rituals and got killed in the stampede outside the Temple. The petitioner is aggrieved by the onerous condition of having to pay a total amount of Rs.70,00,000/- (Rupees Seventy Lakhs only) upfront, as a condition for bail.

The High Court cannot be faulted as from the orders impugned it is patently clear that it was the learned lawyer appearing on behalf of the petitioner who had offered to pay Rs.10,00,000/- (Rupees ten lakhs only) to the family members/legal heirs of each of the deceased pilgrims.

An application was also made for modification of the order dated 30.04.2019 whereupon an order dated 16.05.2019 was passed, extending the time to make the deposit by a further period of three weeks. The said order is also in question.

In this Court it is submitted that the petitioner, who was rendering devotional services in a relatively small Temple at Tiruchirapalli, with little income does not have the requisite funds.

If the petitioner lacks funds, undertaking ought not to have been given to the Court. Be that as it may, it is well settled that bail cannot be made conditional upon heavy deposits beyond the financial capacity of an applicant for bail.

On a perusal of the F.I.R. lodged by the Village Administrative Officer in Muthaiampalayam Village, it appears that an accident took place when "Pidikkas were being distributed on the occasion of Chithira Pavurnami Festival". The petitioner was not even named in the F.I.R. From the averments in the F.I.R., it does not appear that the petitioner was responsible for the death. There appears to have been suffocation due to congestion and rush. Even otherwise, it does not appear incarceration of the petitioner is necessary for investigation or that the petitioner will evade the process of law or tamper with evidence if set at liberty.

We are also informed that the State Government and the Central Government have paid compensation of Rs.1,00,000/- (Rupees one lakh only) and Rs.2,00,000/- (Rupees two lakhs only) respectively to the victims.

Having regard to the facts and circumstances of the case and the allegations in the F.I.R., we deem it appropriate to waive the condition of payment to the family members/legal heirs of the deceased victims for the purpose of

grant of bail. The concerned Judicial Magistrate may grant bail on conditions as he may deem fit to his satisfaction. We order accordingly.

The special leave petitions and pending applications are accordingly disposed of.

(NEETU KHAJURIA)
COURT MASTER

(ANITA RANI AHUJA)
COURT MASTER