



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Monday, the Eighth day of August Two Thousand Sixteen
PRESENT

The Hon`ble Dr.Justice P.DEVADASS

CRL MP(MD) No.3869 of 2016
IN
CRL A(MD) No.148 of 2016

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MUTHUPANDIYAN
(NOW CONFINED AS CONVICT PRISONER IN
PALAYAMKOTTAIL CENTRAL PRISON)

... APPELLANT/ACCUSED

Vs

STATE THROUGH
THE INSPECOR OF POLICE,
SIVAGIRI POLICE STATION,
TIRUNELVELI DISTRICT,
CR NO. 150 OF 2006.

... RESPONDENT/COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence and release me on bail pending disposal of this Criminal Appeal before this Honourable Court against the judgement dated 26.02.2016 in S.C. No. 268 of 2006 on the file of the Honourable Principal Sessions Court, Tirunelveli and pass such further or other orders as this Honourable Court may deem fit and proper in the circumstances of the case.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S R.ALAGUMANI, Advocate for the petitioner and of Mr.P.KANDASAMY, Government Advocate (Crl.side) on behalf of the Respondent while admitting the Criminal Appeal, the court made the following order:-

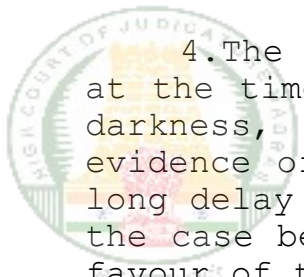
While challenging his conviction and sentence in S.C.No.268 of 2006, on the file of learned Principal Sessions Judge, Tirunelveli, the petitioner seeks appeal bail under Section 389(1) Cr.P.C.

2.In the trial Court, the appellant was convicted and sentenced as under:

Conviction	Sentence
Under Section 304 Part II of IPC	5 years R.I. and fine Rs.500/- i/d 6 months R.I.

Fine amount has been paid.

3.According to the learned counsel for the petitioner P.Ws.1 and 2 were introduced in this case as ocular witnesses. However, during cross-examination it has been established that they would not have witnessed the occurrence. Their evidence suffer from many inherent improbabilities.



4.The learned counsel for the petitioner further submitted that at the time of occurrence there was no electricity, it was pitched darkness, they could not have witnessed the alleged occurrence, evidence of P.Ws.1 and 2 cannot be relied on. There is unexplained long delay in lodging the F.I.R. Prosecution has failed to establish the case beyond all reasonable doubts. There is prima facie case in favour of the petitioner.

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5.On the other hand, the learned Government Advocate (Criminal side) would submit that the evidence of P.Ws.1 and 2/eye witnesses is sufficient to send the accused to jail. Thus, the trial Court has rightly convicted him.

6.I have anxiously considered the rival submissions, perused the impugned judgment and also referred to relevant piece of evidence. I am of the view that certain arguable points are involved in this Criminal Appeal. Further, the petitioner was on bail in the trial Court. It will take some time for the disposal of this appeal. I see prima-facie case in his favour. I am inclined to grant him appeal bail.

7.Ordered as under:

(1) Appeal bail granted.

(2) His sentence of imprisonment alone is suspended.

(3) There shall be two sureties, they and the petitioner shall execute a bond for Rs.20,000/- (Rupees Twenty thousand only) each to the satisfaction of learned Principal Sessions Judge, Tirunelveli.

(4) The petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m. until further orders.

sd/-

08/08/2016

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

1. THE PRINCIPAL SESSIONS JUDGE, TIRUNELVELI.
2. THE INSPECTOR OF POLICE,
SIVAGIRI POLICE STATION,
TIRUNELVELI DISTRICT,
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
4. THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

+1. C.C. to M/S R.ALAGUMANI Advocate SR.No. 42796

ORDER IN
CRL MP(MD) No.3869 of 2016
IN
CRL A(MD) No.148 of 2016
Date :08/08/2016