

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Sixteenth day of August Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice R.SURESH KUMAR

CRIMINAL MISCELLANEOUS PETITION No.10148 of 2017

IN CRL.RC.NO.1073 OF 2017

MURUGESAN

[PETITIONER]

Vs

THE STATE BY

RESPONDENT]

THE INSPECTOR OF POLICE

VEERAGANOR POLICE STATION,

CR.NO.66/2010

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.1073/2017 on the file of the High Court, the High Court will be pleased to suspend the execution of sentence imposed CRL.A.No.115 of 2016 on the file of III additional Sessions Judge, Salem dated 20.07.2017 confirming the Judgment of conviction in C.C.No.152 of 2011 on the file of Judicial Magistrate No.I, Athur and set aside the same. [CRL.MP.NO.10148/2017]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.1073/2017 on the file of the High Court and upon hearing the arguments of M/S.S.SENTHIL Advocate for the petitioner and of MR. C.AYYAPPARAJ, Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

This petition has been filed to suspend the sentence of imprisonment imposed on the petitioner in the judgment dated 20.07.2017 made in Crl.A.No.115 of 2016 on the file of the learned III Additional Sessions Judge, Salem confirming the judgement of conviction dated 26.10.2016 in C.C.No.152 of 2011 on the file of the learned Judicial Magistrate No.I, Athur.

2. It was pointed out by the learned counsel appearing for the petitioner that as per Ex.P.7-Accident Register, it has been specifically mentioned that the blood samples of the petitioner/accused was taken for Alcoholic Analysis. However, the Doctor, who deposed before the trial Court as P.W.18, has stated that the accused/petitioner refused to subject himself for taking blood samples for alcoholic analysis. The learned counsel appearing for the petitioner would also submit that the learned trial Court Judge as well as the appellate Court have heavily relied upon the deposition of the P.W.18 and based on which the petitioner was convicted.

3. Since the P.W.18 deposition was one of the main source which

influenced the Court below to arrive at the conclusion against the petitioner/accused, prima facie, there are contradictions in the said statement of the P.W.18's deposition as compared with Ex.P.7. Therefore, this Court feels that certain arguable points are available in this case, which could be decided at the time of final hearing of the revision. In view of the above stated facts and circumstances, this Court is inclined to consider the suspension of sentence alone to release the petitioner on bail.

4. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is released on bail on the following conditions :-

(i) the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a likesum to the satisfaction of the learned Judicial Magistrate No.I, Attur, Salem District and also

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

-sd/-

16/08/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE III ADDITIONAL SESSIONS
JUDGE, SALEM

2 THE JUDICIAL MAGISTRATE,
NO.I, ATTUR ,SALEM DISTRICT

3 THE CHIEF JUDICIAL MAGISTRATE
SALEM[FOR INFORMATION]

+1 C.C. to M/S.S.SENTHIL Advocate on payment of necessary
charges SR.NO. 15471

Order

in

CRL MP.10148/2017

CRL.RC.NO.1073/2017

Date :16/08/2017

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 16/08/2017