

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Thirteenth day of December Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice M. SATHYANARAYANAN

and

The Hon`ble Mr Justice SATRUGHANA PUJAHARI

CRIMINAL MISCELLANEOUS PETITION No.15673 of 2017

IN CRL A.779/2017

ALLAH BUX,

[PETITIONER/APPELLANT]

Vs

STATE REP.BY ITS
INSPECTOR OF POLICE,
PALLIPALAYAM POLICE STATION,
NAMAKKAL DISTRICT.
CR.NO.969 OF 2011.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal APPEAL No.779 OF 2017 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment imposed in the judgment dated 30.11.2017 made in S.C.No.24 of 2013 on the file of the learned Sessions Judge, Fast Track Mahila Court, Namakkal and enlarge the petitioner on bail pending disposal of the CRL.A.No.779/2017.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.779 of 2017 on the file of the High Court and upon hearing the arguments of M/S.N.MANOKARAN, Advocate for the petitioner and of MR. R.RAVICHANDRAN, Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

The petitioner / appellant is arrayed as A6 out of 6 accused in SC.No.24/2013 on the file of the Court of the Sessions Judge, Mahila Fast Track Court, Namakkal and he stood charged and tried for the commission offence u/s.212 IPC and the Trial Court, vide impugned Judgment dated 30.11.2017 has found him guilty for the commission of the said offence and imposed him the sentence of rigorous imprisonment for three years and to pay a fine of Rs.2000/- with a default sentence of two months rigorous imprisonment. Challenging the legality of the said conviction and sentence, the present appeal is filed and pending appeal, the present miscellaneous petition is filed by the petitioner/appellant [A6] seeking suspension of the sentence.

2 The learned counsel for the petitioner/appellant [A6] would submit that the commission of the offence u/s.212 IPC is cognizable and bailable and during trial, the petitioner/appellant [A6] was on bail and right from the date of conviction and sentence awarded by the Trial Court, the petitioner/appellant [A6] is incarcerated and he has also paid the fine amount. The learned counsel would further add that the petitioner is not having any bad antecedents.

3 *Per contra*, Mr.R.Ravichandran, learned Government Advocate [Crl. Side] who accepts notice on behalf of the respondent - State would oppose this petition seeking suspension of sentence by submitting that the petitioner, knowing pretty well that A1 and A2 had committed heinous offence of murder, had harboured in his house and the Trial Court, has rightly recorded the conviction and awarded the sentence of imprisonment.

4 This Court has considered the rival submissions and also perused the materials placed before it.

5 The fatal overt acts have been attributed against A1 and A2 and A3 to A5 had committed the offence punishable u/s.147 IPC. Insofar as the petitioner/appellant [A6], it is the admitted case of the prosecution that knowing very well that A1 and A2 had committed the murder, the harboured them in his house and since the offence is bailable and that the petitioner was also on bail throughout trial, this Court is inclined to suspend the substantive sentence of imprisonment.

6 In the result, the petition is ordered and the substantive sentence of imprisonment alone in respect of the petitioner herein, is suspended and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- [Rupees ten thousand only] with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Tiruchengode and on further condition that the petitioner shall appear before the said Court / Committal Court on the first working day of every English Calendar Month at 10.30 a.m. until further orders.

-sd/-
13/12/2017

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 JUDICIAL MAGISTRATE,
TIRUCHENGODE.

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL. [FOR INFORMATION]

3 THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT, NAMAKKAL.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
PALLIPALAYAM POLICE STATION,
NAMAKKAL DISTRICT.

+1 C.C. to M/S.N.MANOKARAN Advocate on payment of necessary
charges-Sr.22583

Order

in
CRL MP.15673/2017

in
CRL A.779/2017

Date :13/12/2017

From 7.2.2001 the Registry is issuing certified
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ths : 18.12.2017