

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty First day of July Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice N. AUTHINATHAN

CRIMINAL MISCELLANEOUS PETITION No.8948 of 2017

IN CRL A.704/2016

RATHINASAMY

[PETITIONER]

Vs

STATE BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
THIYAGADURGAM POLICE STATION,
THIYAGADURGAM,
[*]CR.NO.350/2012

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.704/2016. on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner by the Hon'ble III Addl. Sessions Judge, Villupuram at Kallakurichi in S.C.No.211/2013 dated 15.9.2016 and enlarge petitioner the bail pending disposal of the above CRL A.704/2016 [IN CRL.MP.NO.8948 OF 2017]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.704/2016 on the file of the High Court and upon hearing the arguments of M/S.A.G.RAJAN, Advocate for the petitioner and of MR. K.MATHAN, Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

Heard both sides.

2. The petitioner/appellant herein is the first accused in S.C.No.211 of 2013 on the file of III Additional Sessions Judge, Villupuram at Kallakurichi. He was convicted of the offence under Section 352 IPC and ordered to pay a fine of Rs.500/-, in default, to undergo one month Simple Imprisonment and he was sentenced to undergo seven years Rigorous Imprisonment and also to pay a fine of Rs.3,000/-, in default, to undergo three months Simple Imprisonment for the offence under Section 304[I] IPC. The sentences of imprisonment were ordered to run concurrently. Aggrieved by the judgment of the Trial Court, he has preferred the above appeal. Pending appeal, the present petition has been filed to suspend the sentence.

3. The case of the prosecution is that the petitioner is the brother of the deceased. He had a quarrel over irrigation of their respective lands from a common well and following the quarrel, the petitioner herein attacked the deceased with the back portion of a spade. The other accused were alleged to have attacked the deceased using hands and they have shared common intention with the petitioner. On the basis of the evidence, the Trial Court has convicted and sentenced the accused as aforesaid.

4. The learned counsel appearing for the petitioner would submit that the Trial Court has failed to note the injuries sustained by the petitioner inspite of reliable evidence let in by him and that, he is not the aggressor, as he has sustained cut injuries whereas the deceased had not sustained any injury, which could have been caused using spade. He would further submit that the petitioner is suffering from heart ailment and that, he has been in custody since 15.09.2016. He has also pointed out that the petitioner was on bail during trial and therefore, it is a fit case for ordering suspension of sentence.

5. The learned Government Advocate [Criminal Side] appearing for the respondent opposed the petition stating that the Trial Court on the basis of the dependable evidence convicted the accused and he sustained only superficial injuries and that, the petitioner is not entitled to be released on bail at this stage.

6. I have perused the grounds of appeal and the judgment of the Trial Court. It appears that civil dispute is pending between the parties. The petitioner sustained two cut injuries. The antecedents of the petitioner are not reported to be bad and he was on bail during trial. The appeal is not likely to be disposed of within a short time. It is also seen that the accused has raised arguable points. He has been in custody since 15.09.2016 and there is no fear that he will flee from justice. The petitioner was sentenced to a fixed period of seven years imprisonment. Taking all these factors into consideration, I am inclined to suspend the sentence of imprisonment alone till the disposal of the appeal and grant bail subject to stringent condition.

7. Hence, the sentence of imprisonment imposed on the petitioner by the Trial Court alone is hereby suspended till the disposal of the appeal and the petitioner is ordered to be enlarged on bail on executing a bond for Rs.10,000/- [Rupees Ten Thousand only] with two sureties each for a likesum to the satisfaction of the learned Judicial Magistrate, Kallakurichi, within a period of two weeks from the date of this order and on further condition that the petitioner shall stay at Tiruvannamalai and report before the Inspector of Police, Tiruvannamalai Town Police Station, once in a week on every Monday at 10.30 a.m. until further orders.

-sd/-
21/07/2017

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.

[*]Corrected copy to be substituted for the order already despatched on 26/07/2017

TO

1 THE III ADDITIONAL SESSIONS
JUDGE, VILLUPURAM, KALLAKURICHI.

2 THE JUDICIAL MAGISTRATE,
COURT, KALLAKURICHI.

3 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
THIYAGADURGAM POLICE STATION,
THIYAGADURGAM.

5 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

7 THE INSPECTOR OF POLICE,
TIRUVANNAMALAI TOWN POLICE STATION,
TIRUVANNAMALAI.

+1C.C. to M/S.A.G.RAJAN Advocate on payment of necessary
charges SR NO.13727

Order

in
CRL MP.8948/2017

in
CRL A.704/2016

Date :21/07/2017

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

MK:25/07/2017

MK:31/07/2017