



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Fifth day of September Two Thousand Seventeen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.M.SUNDRESH
and
The Hon`ble Mr.Justice N.SATHISH KUMAR

CRL MP(MD) No.5824 of 2017
IN
CRL A(MD) No.162 of 2017

KARTHIKEYAN

... PETITIONER/APPELLANT/SOLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
NAVALPATTU POLICE STATION,
TIRUCHIRAPPALLI DISTRICT.
IN CRIME NO.101 OF 2016.

... RESPONDENT/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 imposed on the Petitioner / Appellant/ Accused in S.C No. 1 of 2017 dated 19.05.2017 on the file of the Learned Sessions Judge of Tiruchirappalli Division, Tiruchirappalli and enlarge him on bail pending disposal of the appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.M.KARUPPASAMY PANDIAN, Advocate for K.MANAVALAN, Advocate for the petitioner and of M/S.R.RAMACHANDRAN, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

(Order of the Court was made by **M.M.SUNDRESH.J. ,)**

This petition has been filed praying to suspend the sentence imposed against the petitioner in Session Case No.1 of 2017 by the learned Sessions Judge of Tiruchirappalli Division, Tiruchirappalli and also to enlarge him on bail.

2.The petitioner is the sole accused in S.C.No.1 of 2017, wherein the petitioner has been found guilty under Section 302 of IPC and sentenced to undergo Life Imprisonment and also imposed a fine of Rs.3,000/- in default to undergo three years Rigorous Imprisonment and he has been found guilty under Section 394 r/w 397



of IPC and sentenced to undergo ten years Rigorous Imprisonment and also imposed a fine of Rs.2,000/- in default to undergo three months Rigorous Imprisonment. Under the said circumstances, the present petition has been filed seeking suspension of the sentence awarded.

3.The case of the prosecution is that excess liquor was administered on the deceased and thereafter, the offence was committed. It is submitted that as per Section 27 of the Indian Evidence Act recovery was made in pursuant to the arrest shown on 27.05.2016. However, P.Ws.1,3 and 4 have stated that the petitioner was in custody even one day prior to the date of arrest on 27.05.2016. Therefore, there is a doubt over the recovery and arrest made on 27.05.2016. The medical examination would show that the deceased was not under the influence of Alcohol.

5.The learned Additional Public Prosecutor would submit that the trial Court has taken into consideration of the evidence of P.Ws.1 to 10 and coupled with the recovery made, rightly convicted the accused and no interference is required.

6.On a perusal of the records, it is seen that the P.Ws.1,3 and 4 have stated that the petitioner was in custody even prior to the date of arrest on 27.05.2016. The recovery has been made in pursuant to the arrest made on 27.05.2016. Secondly, the body of the deceased was not found to be containing any Alcohol. The investigating officer also stated that the P.W.1 has not identified the chain said to have been owned by the deceased.

7.Considering the above facts and taking note of the fact that there are some arguable points are involved in this criminal appeal and considering the period of incarceration undergone by him, we are inclined to grant suspension of the sentence.

8. In fine, this petition is ordered and the sentence imposed against the petitioner in S.C.No.1 of 2017 by the learned Sessions Judge of Tiruchirappalli Division, Tiruchirappalli is alone suspended till the disposal of Criminal Appeal No.162 of 2017 and the petitioner will be released on bail on executing a bond for a sum of Rs.10,000/- and two sureties each for a likesum to the satisfaction of the learned Judicial Magistrate No.III, Tiruchirappalli and on further condition that the petitioner shall appear before the said Court on the first working day of every English Calendar month at 10.30 a.m until further orders.

sd/-
05/09/2017

/ TRUE COPY /



TO

1. THE SESSIONS JUDGE OF TIRUCHIRAPPALLI DIVISION,
TIRUCHIRAPPALLI.
2. THE JUDICIAL MAGISTRATE NO.III, TIRUCHIRAPPALLI.
3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE, TIRUCHIRAPPALLI.
4. THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.
5. THE INSPECTOR OF POLICE
NAVALPATTU POLICE STATION, TIRUCHIRAPPALLI DISTRICT.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.K.MANAVALAN Advocate SR.No.29993

ORDER
IN
CRL MP (MD) No.5824 of 2017
IN
CRL A (MD) No.162 of 2017
Date :05/09/2017

MS/PN/SAR.1/07.09.2017/3P.8C