

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Thursday, the Fifth day of April Two Thousand Eighteen

PRESENT

THE HON'BLE THIRU JUSTICE P. KALAIYARASAN
CRIMINAL MISCELLANEOUS PETITION No.4652 of 2018
IN CRL A.193/2018

R.SATHIYARAJ

[PETITIONER / APPELLANT]

Vs

STATE BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
H1, WASHERMENPET TRAFFIC INVESTIGATION UNIT,
CHENNAI NORTH.
CR.NO.277/H1/2016

Petition praying that in the circumstances stated therein the High Court will be pleased to suspend the sentence passed by the learned XIX Additional Sessions Judge in S.C.No.134 of 2017 dated 26.02.2018 and enlarge the petitioner on bail, pending disposal of the above CRL A.193/2018 [IN CRL.MP.NO.4652 OF 2018]

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.T.SHANMUGA BOOPATHI, Advocate for the petitioner and of M/S.M.PRABHAVATHI GANESH RAM ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

Heard both sides.

2.This petition has been filed seeking to suspend the sentence imposed by the learned XIX Additional Sessions Judge, Chennai, dated 26.02.2017, in S.C.No.134 of 2017, convicting and sentencing the accused to undergo SI for 7 years for the offence under Section 304[II] of IPC.

3.Learned counsel for the petitioner/accused contends that the petitioner has been charge sheeted, alleging that he drove the EICHER vehicle, in a rash and negligent manner and hit against a physically challenged person, resulting her death. It is further contended that even as per the allegations made by the prosecution, only offence under Section 304-A of IPC is made out and the conviction for the offence under Section 304[II] of IPC is not based on the evidence and therefore, the sentence imposed by the trial Court may be suspended. It is also represented that the petitioner/accused had been on bail through out the trial and that he is having permanent residence and having fair chance of getting acquittal in the appeal.

4.Learned Additional Public Prosecutor argued that the trial Court, after analysing the evidence, has rightly convicted the accused under Section 304[II] of IPC and if the sentence is suspended, the petitioner/accused may abscond and the criminal appeal will not be proceeded with. However, the learned Additional Public Prosecutor fairly concedes that the appellant/accused was not under intoxication, at the time of occurrence.

5.As rightly pointed out by the learned counsel for the petitioner/ accused, the allegations in the charge sheet is that the petitioner/accused drove the vehicle, in a rash and negligent manner and hit against the physically disabled person, resulting her death. However, the Investigating Officer charge sheeted the accused for the offence under Section 304[II] of IPC and the trial Court also convicted him for the said offence.

6.Considering the allegations made against the petitioner/accused, the fact that he had been on bail through out the trial and that he is a permanent resident, this Court is inclined to suspend the sentence imposed by the trial Court. Accordingly, the substantive sentence of imprisonment alone is suspended on executing 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 III Metropolitan Magistrate, George Town, Chennai and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m till the disposal of the revision.

-sd/-
05/04/2018

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 XIX ADDITIONAL SESSIONS
JUDGE, CHENNAI.

2 THE METROPOLITAN MAGISTRATE,
NO.III, GEORGE TOWN, CHENNAI.

3 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI
[FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
H1, WASHERMENPET TRAFFIC INVESTIGATION UNIT,
CHENNAI NORTH.

5 THE SUPERINTENDENT,
CENTRAL PRISON,
PUZHAL, CHENNAI.

+1C.C. to M/S.T.SHANMUGA BOOPATHI Advocate on payment of
necessary charges SR NO.6605

Order

in
CRL MP.4652/2018

in
CRL A.193/2018

Date :05/04/2018

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

MK:05/04/2018