

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Ninth day of April Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice P. KALAIYARASAN

CRIMINAL MISCELLANEOUS PETITION No.5473 of 2018

IN CRL A.223/2018

SELVAKUMAR @ SELVAM

[PETITIONER]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE
THIRUNALLAR NPOLICE STATION,
KARAIKAL PONDICHERRY
CR.NO.78 OF 2013.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.223 of 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner in S.C.No.2 of 2016 on the file of the Learned Sessions Judge at karaikal, Pondicherry dated 13.06.2013 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal No.223 of 2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Criminal Appeal No.223 of 2018 on the file of the High Court and upon hearing the arguments of M/S.S.KASIRAJAN, Advocate for the petitioner and of MR.D.BHARATHA CHAKRAVARTHY, PUBLIC PROSECUTOR FOR PUDUCHERRY on behalf of the Respondent the court made the following order:-

Heard both sides.

2.This petition has been filed by the petitioner/A1 seeking to suspend the order of sentence passed by the learned Sessions Judge, Karaikal, dated 13.06.2017, in S.C.No.2 of 2016.

3.The petitioner/appellant has been convicted and sentenced to undergo RI for 5 years for the offence under Section 304[2] of IPC and to pay a fine of Rs.1,000/-, in default to undergo SI for 2 months and also sentenced to undergo RI for 6 months for offences under Section 324 of IPC r/w 34 of IPC and to pay a fine of Rs.500/-, in default to undergo SI for 1 month.

4.Learned counsel for the petitioner/appellant contends that the petitioner had been in custody for about 30 months, that the occurrence took place in the arrack shop and there is no eye-witness and that the petitioner is having fair chance of acquittal in the appeal and therefore, the sentence may be suspended.

5.Learned Public Prosecutor [Puducherry] opposed to grant suspension. However, he fairly concedes that the petitioner/appellant had been in custody for about 26 months.

6.Considering the duration of custody of the petitioner/appellant, the fact that he is having permanent residence and also the entire facts and circumstances of the case, 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 Judicial Magistrate-II, Karaikal 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 appeal.

-sd/-
09/04/2018

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 JUDICIAL MAGISTRATE,
NO.II, KARAİKAL.

2 THE CHIEF JUDICIAL MAGISTRATE
PUDUCHERRY. [FOR INFORMATION]

3 THE SESSIONS JUDGE,
KARAİKAL, PONDICHERRY.

4 THE INSPECTOR OF POLICE,
THIRUNALLAR POLICE STATION,
KARAİKAL, PONDICHERRY.

5 THE PUBLIC PROSECUTOR,
PUDUCHERRY.

6 THE OFFICER INCHARGE,
SUB-JAIL (SPECIAL),
KARAIKAL, PONDICHERRY.

+1C.C. to M/S.S.KASIRAJAN Advocate on payment of necessary
charges in SR.NO. 6793

Order

in
CRL MP.5473/2018

in
CRL A.223/2018

Date :09/04/2018

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MLT-09/04/2018