

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Seventh day of September Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice C. T. SELVAM

and

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.6423 of 2018

IN CRL A.265/2018

NARAYANAN @ SARAVANAN

[APPELLANT / ACCUSED-1]

Vs

STATE OF TAMILNADU [RESPONDENT]

REPRESENTED BY INSPECTOR OF POLICE,
ANUPAR PALAYAM POLICE STATION,
CR.NO.1817/2008,
TIRUPPUR DISTRICT.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.265/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence passed by the Learned 2nd Additional District and Sessions Judge Tiruppur is in SC.No.164 of 2015 dated 23.06.2017 and enlarge the petitioner on bail pending the disposal of the above CRL A.265/2018 [IN CRL.MP.NO.6423 OF 2018]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.265/2018 on the file of the High Court and upon hearing the arguments of M/S.M.DEVARAJ, Advocate for the petitioner and of MR.R.PRATAP KUMAR ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

(Order of the Court was made by C.T.SELVAM, J)

Petitioner was convicted for offence u/s.302 and 307 r/w 34 IPC and sentenced to undergo Life imprisonment and fine of Rs.5,000/- i/d one year R.I. for offence u/s 302 IPC and 10 years Rigorous Imprisonment and fine of Rs.5,000/- i/d one year R.I for offence u/s 307 r/w 34 IPC by learned II Additional District and Sessions Judge, Tiruppur, under judgment dated 23.06.2017 in S.C.No.164 of 2015. Hence, petitioner seeks suspension of sentence.

2. Learned counsel for petitioner would submit that the petitioner is confined at Central Prison, Coimbatore, and there are several infirmities and inconsistencies found in the prosecution case. It is contended that there are contradictions in the material

particulars between the evidence of the prosecution witnesses. Learned counsel further submits that the petitioner has paid the fine amount.

3. Learned counsel for petitioner submitted that according to PW-1, he and his brother/the deceased suffered injuries at the hands of the accused on the night of 28.12.2008 at 11.00.p.m, when both came to the house of the deceased and called him out. PW-6-Doctor, who examined PW-1 at Hospital at 00.35 hours, had deposed that PW-1 had informed of having attacked by three unknown persons. As against the version of PW-1 that he and the deceased had been set upon by the accused persons with the wooden log. PW-6-Doctor has spoken to a cut injury on the head of PW-1. The accused have been in custody for over a period of one year.

4. Heard learned Additional Public Prosecutor on the submissions made by learned counsel for petitioner.

5. Considering the facts and circumstances of the case and in view of the fact that the petitioner has been in custody for over a period of one year, that there are several infirmities in the prosecution case and there are arguable points involved in the appeal, as contended by learned counsel for petitioner, and further the appeal is not likely to be taken up for final hearing in the near future, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond in 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-I, Tiruppur, 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. pending appeal.

-sd/-

07/09/2018

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.I, TIRUPPUR.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR [FOR INFORMATION]

3 THE 2ND ADDITIONAL DISTRICT
AND SESSIONS JUDGE, TIRUPPUR.

4 THE INSPECTOR OF POLICE,
ANUPAR PALAYAM POLICE STATION,
TIRUPPUR DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

+1C.C. to M/S.M.DEVARAJ Advocate on payment of necessary
charges IN SR NO. 17162

Order

in
CRL MP.6423/2018

in
CRL A.265/2018

Date :07/09/2018

सत्यमेव जयते

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MK 10/09/2018

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