

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Ninth day of August 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.6682 of 2018

IN CRL A.283/2018

CHINNAN @ CHINNAPI

[PETITIONER]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
BARGUR POLICE STATION,
ANTHIYUR TALUK,
ERODE DISTRICT
CR.NO.23 OF 2015.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.283/2018 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.32 of 2016 on the file of IV Additional District and Sessions Court, Bhavani dated 27.02.2018 and to enlarge the petitioner on bail pending disposal of the above Criminal Appeal in this Honble Court and pass such further or other orders.[CRL.MP.NO.6682/2018]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.283/2018 on the file of the High Court and upon hearing the arguments of M/S.S.KAITHAMALAI KUMARAN Advocate for the petitioner and of MR.R.PRATHAP KUMAR Additional public prosecutor on behalf of the Respondent the court made the following order:-

Petitioner was convicted for offences u/s.302 IPC and sentenced to undergo Life imprisonment and fine of Rs.1,000/- i/d 6 months R.I. for offence u/s 302 IPC by learned IV Additional District and Sessions Judge, Bhavani, under judgment dated 27.02.2018 in S.C.No.32 of 2016. Trial Court directed that sentences run concurrently. Hence, petitioner seeks suspension of sentence.

2. The case of the prosecution is that the deceased/elder brother of the appellant/accused, who done to death on 08.06.2015 at about 10.00.am, when the appellant/accused used a sharp weapon and caused injury on the neck of the deceased. The FIR had allegedly been registered at 12.45.p.m and had reached the Magistrate next day.

The occurrence has been taken place at a distance of 45.km from the police station. PW-1- wife of the deceased was the complainant. She and PW-13, Sub-Inspector of Police, who registered FIR are at variance on the manner in which, the FIR came to be registered.

3. 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 and the prosecution witnesses. Learned counsel further submits that the petitioner has paid the fine amount. He would submit that there was evidence that even PW-1 would admit the enmity between the deceased and others and the appellant stands falsely implicated.

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, 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, Bhavani, 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/-
09/08/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

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TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE IV ADDITIONAL DISTRICT
AND SESSIONS COURT,
BHAVANI

<https://hcservices.ecourts.gov.in/hcservices/>

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE[FOR INFORMATION]

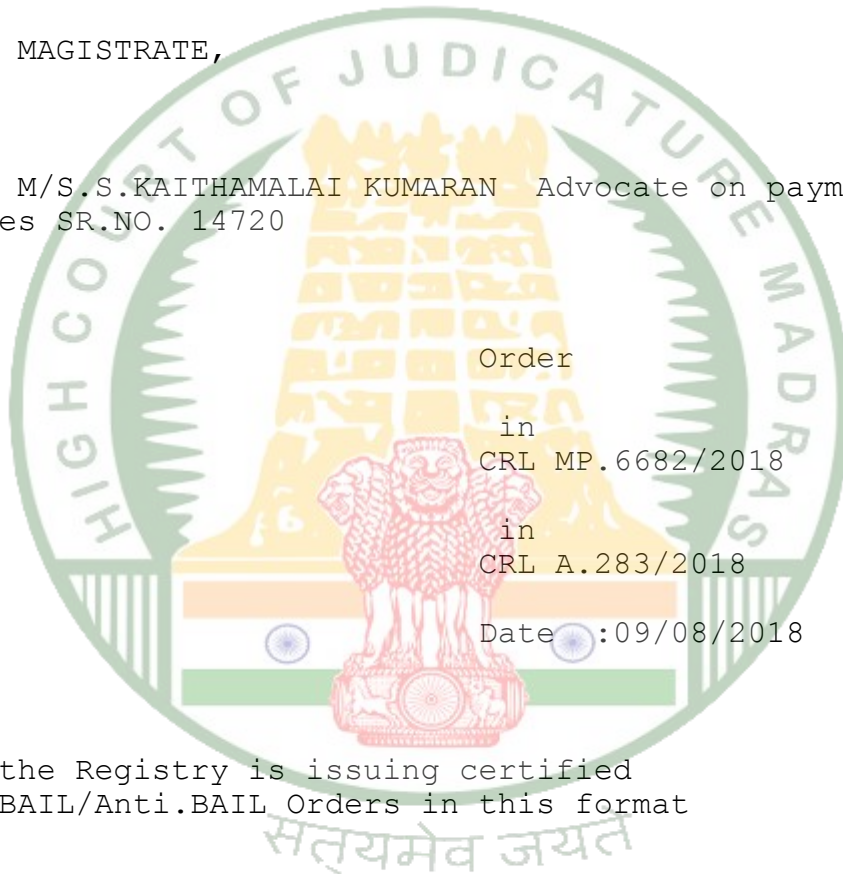
3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
BARGUR POLICE STATION,
ANTHIYUR TALUK, ERODE DISTRICT

5 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE

6 THE JUDICIAL MAGISTRATE,
BHAVANI

+1 C.C. to M/S.S.KAITHAMALAI KUMARAN Advocate on payment of
necessary charges SR.NO. 14720



From 7.2.2001 the Registry is issuing certified
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RD 10/08/2018

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