

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Tuesday, the Fourth day of December Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice V. PARTHIBAN

CRIMINAL MISCELLANEOUS PETITION No.14283 of 2018

in CRL.R.C.No.103 of 2018

BABU

[ PETITIONER ]

vs

STATE BY,  
THE INSPECTOR OF POLICE,  
PALLIKONDA POLICE STATION,  
VELLORE, VELLORE DISTRICT.  
(CRIME NO.510 of 2012)

[ RESPONDENT ]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.R.C.No.103 of 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner by the learned Assistant sessions Judge cum Chief Judicial Magistrate, Vellore district in S.C.No.96 of 2013 by judgment dated 2.2.2016 which was confirmed by the appellate court in CA.No.4 of 2016 by the Judgment dated 21.12.2017 on the file of Learned Additional District and Sessions Judge, (FTC), Vellore, Vellore District and enlarge the petitioner on bail, pending disposal of the above CRL.R.C.No.103 of 2018 [CRL.M.P.No.14283 of 2018].

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.R.C.No.103 of 2018 on the file of the High Court and upon hearing the arguments of M/S.L.MAHENDRAN, Advocate for the petitioner, and of MR.G.HARIHARA ARUN SOMA SANKAR Government Advocate on behalf of the Respondent, the court made the following order:-

There are totally ten accused and the petitioner herein is arrayed as A1 in Sessions Case No.96 of 2013, on the file of the Assistant Sessions Judge-cum-Chief Judicial Magistrate, Vellore. By order, dated 02.02.2016, the trial Court has convicted him for offences under Sections 147, 294(b), 341, 333, 353 and 326 of the Indian Penal Code. The maximum punishment imposed upon the petitioner is Rigorous Imprisonment for five years. On appeal, the

said conviction and sentence were confirmed by the learned Additional District Judge (FTC), Vellore, by judgment dated 21.12.2017. Challenging the said conviction and sentence, the petitioner has preferred the above revision. Pending appeal, he seeks for suspension of sentence.

2.Heard, Mr.L.Mahendran, the learned counsel for the petitioner and Mr.G.Hari Hara Arun Soma Sankar, learned Government Advocate, appearing on behalf of the State and I have also perused the records carefully.

3.The learned Government Advocate would submit that on 11.09.2014 there was a group clash between two elements. On the basis of the information received, P.W.1-the Sub-Inspector of Police along with police battalion went to the scene of occurrence to pacify the situation. On seeing them the petitioner/A1 pelted stone on P.W.1., as a result, P.W.1 lost his vision. She would further submit that there are clinching materials in support of the prosecution case and on the basis of the said materials, the Courts below have passed a concurrent finding, imposing five years Rigorous Imprisonment on the petitioner/accused. She would further submit that there are enough materials to sustain the charge framed against the petitioner and as such, the petitioner is not entitled to be released on bail.

4.The learned counsel for the petitioner would submit that in a group clash, someone thrown stone, which hit P.W.1, and the petitioner is in no way connected with the said action. He would further submit that there is no direct evidence to show that this petitioner pelted stone on P.W.1, since the incident had happened at 200 meters away, at night time. There is no specific overt act attributed as against the petitioner. Hence, the learned counsel prays for suspension of sentence.

5.In view of the fact that there are several infirmities in the prosecution case and there are arguable points involved in the appeal, as contended by learned counsel for the petitioner, 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 he shall execute 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 learned Assistant Sessions Judge-cum-Chief Judicial Magistrate, Vellore, Vellore District, and on further

condition that the petitioner shall report before the trial Court daily at 10.30 a.m., pending disposal of the revision case.

-sd/-

04/12/2018

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 ASSISTANT SESSIONS JUDGE  
CUM CHIEF JUDICIAL MAGISTRATE,  
VELLORE, VELLORE DISTRICT

2 THE ADDITIONAL DISTRICT JUDGE  
(FAST TRACK COURT),  
VELLORE, VELLORE DISTRICT

3 THE CHIEF JUDICIAL MAGISTRATE  
VELLORE [FOR INFORMATION]

4 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

5 THE SUPERINTENDENT,  
CENTRAL PRISON, VELLORE

6 THE INSPECTOR OF POLICE,  
PALLIKONDA POLICE STATION,  
VELLORE, VELLORE DISTRICT

+1C.C. to M/S.L.MAHENDRAN Advocate on payment of necessary charges SR.NO.23104

Order

WEB COPY

in  
CRL M.P.No.14283 of 2018  
in  
CRL.R.C.No.103 of 2018  
Date :04/12/2018

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cm 06/12/2018