

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Fifth day of December Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice C.T.SELVAM

and

The Hon`ble Mr Justice B.PUGALENDHI

CRIMINAL MISCELLANEOUS PETITION No.15938 of 2018

IN CRL A.772/2018

R.MAHENDRAN

[PETITIONER/APELLANT]

Vs

THE STATE OF TAMIL NADU REP.
BY, THE INSPECTOR OF POLICE,
V6-KOLATHUR POLICE STATION,
CHENNAI. CR.NO.944 OF 2017.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal APPEAL No.772 OF 2018 on the file of the High Court, the High Court will be pleased to release the petitioner on bail by suspending the sentence imposed upon the petitioner by the judgment dated 15.11.2018 rendered in S.C.No.254 of 2017 on the file of the Principal Sessions Judge, Chennai pending disposal of the above CRL.A.NO.772/2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.772 of 2018 on the file of the High Court and upon hearing the arguments of MR.S.SUBBIAH, SENIOR COUNSEL FOR M/S.P.RAJA, Advocate for the petitioner and of MR. K.PRABAKAR, ADDL. 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 IPC and sentenced to undergo Life Imprisonment and fine of Rs.1,000/- by learned Principal Sessions Judge, Chennai, under judgment dated 15.11.2018 in S.C.No.254 of 2017. Hence, petitioner seeks suspension of sentence.

2. We have heard Mr.S.Subbiah, learned Senior counsel appearing for petitioner as also Mr.K.Prabakar, learned Additional Public Prosecutor for respondent.

3. Learned Senior Counsel specifically challenged the evidence of PW-2 on the aspect of her last having seen the deceased in the company of the accused since it was she, who had opened the door, permitting the accused to enter into the house, whereupon the accused and the

deceased went upstairs towards consuming liquor. While PW-1 and 9 have spoken to three persons including the accused having been taken to the police station on 01.01.2017 that the accused was detained and others were let off, it was the prosecution case of that the accused was arrested on 02.07.2017 near the Railway Station. The prosecution case is of the deceased and accused having consumed liquor together. In the Postmortem report, the contents of the stomach reveals no presence of alcohol and further the brain of the deceased has been found liquefied. Postmortem was conducted by 12.00.p.m on 01.07.2017 and the report, as against the prosecution case of the deceased having been strangled to death and thrown into a water sump, informs that the deceased died owing to drowning. Learned Senior Counsel would further submit that the petitioner is confined at Central Prison, Puzhal, Chennai.

4. Mr.K.Prabakar, learned Additional Public Prosecutor submitted that on due appreciation of facts and circumstances of the case, the trial Court rendered upon a finding of conviction. The deceased having last been seen in the company of the accused has been spoken to by PW-2 and further PW-9 deposed to having witnessed the deceased being dragged which is in keeping with the prosecution case.

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 Senior 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 V Metropolitan, Egmore, 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. pending appeal.

-sd/-

05/12/2018

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 METROPOLITAN MAGISTRATE,
NO.V, EGMORE, CHENNAI.

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI.
[FOR INFORMATION]

3 THE PRINCIPAL SESSIONS JUDGE,
CHENNAI.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
V6-KOLATHUR POLICE STATION,
CHENNAI.

+1 C.C. to M/S.P.RAJA Advocate on payment of necessary charges
-Sr.23172

Order

in
CRL MP.15938/2018

in
CRL A.772/2018

Date :05/12/2018

From 7.2.2001 the Registry is issuing certified
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ths : 06.12.2018