



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Ninth day of April Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice C.T.SELVAM

and

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL MP (MD) No.1894 of 2018

IN

CRL A(MD) No.120 of 2018

KAILASAM

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
ALANGUDI POLICE STATION,
PUDUKOTTAI DISTRICT
(CRIME NO. 395/2014)

... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to enlarge the petitioner on bail by suspending the sentence imposed upon the petitioner by the Additional District and Sessions Court (Special Court for EC and NDPS Act Cases), Pudukottai in S.C.No.57 of 2015 dated 21.02.2018, pending disposal of the above Criminal Appeal

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.N.R.ELANGO, Senior Counsel for M/S.D.VENKATESH, Advocate for the petitioner and of MR.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

[Order of the Court made by **C.T.SELVAM, J.,**]

Petitioner is arrayed as Accused No.3 in S.C.No.57 of 2015, on the file of the Additional District and Sessions Court, Pudukottai and under judgment dated 21.02.2018, he has been convicted and sentenced as follows:-

Offence	Sentence
120-B r/w 302 IPC	Life imprisonment and fine of Rs.5,000/- for each offence i/d 3 months S.I.
449 IPC	10 years R.I. and fine of Rs.2,000/- i/d 3 months S.I.

Petitioner has come forward with the above miscellaneous petition, seeking relief of suspension of sentence pending appeal.



2. Heard the learned Senior Counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

3. The case of the prosecution is that the deceased and the first accused were husband and wife. The deceased was employed abroad and out of his earnings, A-1 lived a most lavish life and shared illicit intimacy with A-3, the petitioner herein. The deceased having returned home, questioned A-1 on her lavish life style. Angered, A-1 to A-6 hatched a criminal conspiracy to do away with the deceased. Accordingly, A-3 to A-6 entered into the house of the deceased and the petitioner kicked the deceased. A-4 hit the deceased with a writing table, causing fatal injury on his head and murdered the deceased on 18.12.2014. A case was registered in Crime No.395 of 2014 and the same on completion of investigation, filing of final report and committal came up for trial before the Additional District and Sessions Court, Pudukottai in S.C.No. 57 of 2015 and under judgment dated 21.02.2018, the accused were convicted for offences u/s., 120-B r/w 302 & 449 IPC. The trial Court convicted A-1 and A-3, even while acquitting A-2, A-4 to A-6, who were allegedly the friends of A-3.

4. The learned Senior Counsel submitted that P.W.6 & P.W.7 were the relatives of P.W.1. P.W.1 is the brother of the deceased and they are chance witnesses and as such, their evidence requires close scrutiny, since they had spoken that they only saw A-3 coming down of the stairs of the house of the deceased, but, have not stated who had accompanied him. The learned Senior Counsel for the petitioner submitted that the aforesaid position presents a total lack of clarity of the prosecution case and thus the petitioner should have been given the benefit of doubt. Learned Senior Counsel for the petitioner further submitted that the petitioner presently is confined at Central Prison, Trichy. Submitting as above, learned counsel prays for the grant of relief of suspension of sentence to petitioner herein.

5. Per contra, learned Additional Public Prosecutor, relying upon the counter affidavit filed by the respondent police, contended that the prosecution has established its case beyond all reasonable doubt and the minor discrepancies found in the evidence of the prosecution witnesses will not affect the prosecution case in its entirety. He strongly opposed to the grant of the relief of suspension of sentence to petitioner.

6. Considering the facts and circumstances of the case and the submission of both sides, this Court considers it appropriate to suspend the substantive portion of sentence imposed on petitioner.

7. Accordingly, the substantive sentence of imprisonment alone is suspended in respect of petitioner / accused and he is directed to be enlarged on bail on condition that he 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, Alangudi and on further condition that petitioner shall



report before the said Court on the first working day of every month at 10.30 a.m. pending appeal.

sd/-
09/04/2018

/ TRUE COPY /

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE
(SPECIAL COURT FOR EC AND NDPS ACT CASES), PUDUKOTTAI.
- 2 THE JUDICIAL MAGISTRATE, ALANGUDI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
PUDUKOTTAI DISTRICT.
- 4 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
- 5 THE INSPECTOR OF POLICE
ALANGUDI POLICE STATION, PUDUKOTTAI DISTRICT.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

Copy to

THE SECTION OFFICER, CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.D.VENKATESH Advocate SR.No.5726

ORDER
IN
CRL MP (MD) No.1894 of 2018
IN
CRL A (MD) No.120 of 2018
Date :09/04/2018

MKV-CM-VR-GSR/11.4.2018/3P-9C