



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

Monday, the Twenty Third 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.2631 of 2018

IN

CRL A(MD) No.163 of 2018

SATHAM HUSSAIN @ KARUPPU SATHAM HUSSAIN

... APPELLANT/ACCUSED NO.1

Vs

THE STATE REP.BY,
THE ASSISTANT COMMISSIONER OF POLICE,
SOCIAL JUSTICE AND HUMAN RIGHTS UNIT,
MADURAI CITY POLICE, MADURAI.

(IN CR.NO.317/2015

ON THE FILE OF THE K.PUDUR POLICE STATION,

MADURAI)

... RESPONDENT/COMPLAINANT

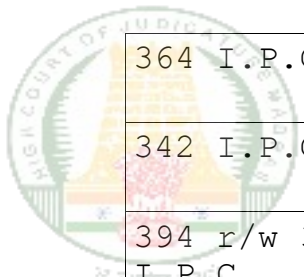
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed by the Learned III Additional District and Sessions Judge, and Special Court for PCR Cases, Madurai in Spl.S.C.No.17 of 2016 dated 12.03.2018 and enlarge the Appellant on bail pending disposal of the above said Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.S.M.A.JINNAH, 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 passed by **C.T.SELVAM, J.**]

Petitioner is arrayed as accused No.1 in Special S.C.No.17 of 2016, on the file of the Learned III Additional District and Sessions Judge, Special Court for PCR Cases, Madurai, and under judgment dated 12.03.2018, he has been convicted for the following offences:-

Offence	Sentence
379 I.P.C.	1 year R.I. and fine of Rs.500/- i/d 1 month S.I.



364 I.P.C.	10 years R.I. and fine of Rs.1,000/- i/d 6 months S.I.
342 I.P.C.	1 year R.I. and fine of Rs.500/- i/d 1 month S.I.
394 r/w 397 I.P.C.	10 years R.I. and fine of Rs.1,000/- i/d 6 months S.I.
302 I.P.C.	Life imprisonment and fine of Rs.2,000/- i/d 1 Year S.I.

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

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

3. The case of the prosecution was that the accused were friends and in order to settle in their life they planned to commit murder for gain and in pursuance thereof they stole a Maruthi Omni Car and using the same, they kidnapped the deceased, who belonged to Scheduled Caste Community, robbed his chain and bag and murdered him. A case was registered on 30.03.2015 and the same on completion of investigation, filing of final report and committal came up for trial before learned III Additional District and Sessions Judge, Special Court for PCR Cases, Madurai in special S.C.No.17 of 2016 and under judgment dated 12.03.2018, Accused No.1 was convicted for the offences u/s. 379, 364, 342, 394 r/w 397 and 302 I.P.C.

4. Amidst other submissions, learned counsel for petitioner submitted that in a case of circumstantial evidence the prosecution sought to prove its case by resorting to the last seen theory. Such theory is projected through P.Ws.22 and 33, who have spoken to the appellant seeking to avail their service which was refused by them and thereafter they saw the appellant in the company of the deceased on 28.03.2015. Learned counsel submitted that as against registration of the case on 30.03.2015, this appellant/accused was arrested on 01.11.2015 and the statements of P.Ws.22 and 33 under Section 161(3) Cr.P.C. have reached the Court on 26.01.2016. He further contended that against the alleged recovery from accused of gold dolor chain worn by the deceased, P.W.4, father of the deceased deposed that he has been shown the said chain even at the time of his initial examination by the police. Further, P.W.4 has admitted that the deceased and he had no enmity with anyone other than one Chithiravelu, who has not been examined. Learned counsel for petitioner further submits that the petitioner presently is confined at Central Prison, Madurai. 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, 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 No.1 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 III Additional District and Sessions Judge, Special Court for PCR Cases, Madurai, 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/-
23/04/2018

/ TRUE COPY /

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

TO

- 1 THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE,
SPECIAL COURT FOR PCR CASES, MADURAI.
- 2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 3 THE ASSISTANT COMMISSIONER OF POLICE,
SOCIAL JUSTICE AND HUMAN RIGHTS UNIT,
MADURAI CITY POLICE, MADURAI.
(ON THE FILE OF THE K.PUDUR POLICE STATION, MADURAI)
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.S.M.A.JINNAH Advocate SR.No.6910

ORDER
IN
CRL MP(MD) No.2631 of 2018
IN
CRL A(MD) No.163 of 2018
Date :23/04/2018

MKV-CM-VR-RNB/25.4.2018/3P-6C