

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Second day of February Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice M. SATHYANARAYANAN

and

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.1885 of 2019

IN CRL.A.69 OF 2019

S.C.NO.288 OF 2014

[ON THE FIEL OF THE LEARNED SESSIONS JUDGE, MAHALIR NEETHI MANDRAM
(FAST TRACK MAHILA COURT),TIRUVALLUR

JEYARAMAN

[PETITIONER]

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE,
M7, MANALI NEW TOWN POLICE STATION,
TIRUVALLUR DISTRICT.
CR.NO.220 OF 2014.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.69 of 2019 on the file of the High Court, the High Court will be pleased to enlarge him on bail by suspending the sentence imposed by the Learned Sessions Judge, Magalir Needhimandram, Tiruvallur in S.C. No.288 of 2014 vide his judgment dated 05.12.2018 pending the disposal of the main Criminal Appeal pending on the file of this Hon`ble Court and thus render justice.[CRL.MP.NO.1885/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.69/2019 on the file of the High Court and upon hearing the arguments of M/S.R.ANAND Advocate for the petitioner and of MR.R.PRATHAP KUMAR Addl. Public Prosecutor on behalf of the Respondent the court made the following order:-

[Order of the Court was made by M.SATHYANARAYANAN, J.]

The sole accused in S.C.No.288 of 2014 on the file of the learned Sessions Judge, Magalir Needhimandram, Tiruvallur, who stood charged, tried and convicted for the commission of offence under Section 302 of I.P.C and imposed with sentence of Rigorous Imprisonment for Life and to pay a fine of Rs.5,000/- in default to undergo 6 months Simple Imprisonment passed by the Trial Court, vide

impugned judgment dated 05.12.2018 has filed this appeal and pending disposal of the same has filed this petition praying for suspension of the substantive sentence of imprisonment.

2. Mr.R.Anand, learned counsel appearing for the petitioner would submit that the deceased is the daughter of PWs.1 and 2 and the accused / appellant and the deceased loved each other and according to the prosecution, the marriage proposal made by the appellant / accused was not accepted by the parents of the deceased, P.W.1 & 2 and infuriated by the same and took knife and entered into the house of the deceased at about 10.30 a.m on 16.03.2014 and with the hidden knife, cut the throat of the deceased and as a consequence, she died on the spot and the said occurrence was also witnessed by PW1/mother of the deceased and according to the prosecution, the father of the victim girl viz., PW2 and PW3 - owner of the floor in which the deceased was living as well PW4, sister of PW2, saw the accused / petitioner coming out of the house with the knife.

3. The primordial submission made by the learned counsel appearing for the petitioner is that since PW1, her mother was the sole witness to the occurrence, there are very many material contradiction which came to be elicited during the course of cross examination and in the absence of corroboration of material particulars as to the testimony of the eyewitness / PW1, the Trial Court has committed a grave error in convicting and sentenced the appellant/petitioner and since, he is having of bright chance of succeeding in the appeal, prays for suspension of substantive sentence of imprisonment.

4. *Per contra*, Mr.R.Prathap Kumar, learned Additional Public Prosecutor appearing for the State would submit that PW1 had saw the appellant / accused cutting the throat of the deceased/her daughter and after committing the crime, he fled from the scene of occurrence and it was witnessed by PW2/father of the deceased, PW3/owner of the premises in which the deceased PWs.1 and 2 were residing as well as PW4- sister of PW apart from the fact that PW8 son of PW3 had also chased the appellant / accused but he fled away from the scene of occurrence and also invited attention of this court to the cross examination of PW1, wherein more than one occasion, she has clearly spoken about the fatal overt act on the part of the appellant / accused and since the scientific evidence has also established that the deceased had died on account of homicidal violence, prays for dismissal of this petition.

5. This Court has carefully considered the rival submission and also perused the materials placed before it.

6. A perusal of the impugned judgment and other materials placed before this Court would *prima facie* indicate that it was the petitioner / appellant / accused who has committed the murder of the daughter of PWs.1 and 2 for the reason that his marriage proposal has not been accepted and on committing the occurrence, he fled away from the scene of occurrence and it was also witnessed by PWs.2, 3 and 4 and he was also chased by PW8. Though it is vehement and forceful

submission of the learned counsel appearing for the petitioner/appellant that the appellant / accused had also sustained injuries and the postmortem report would also indicate that the deceased had suffered serious injuries, for which no explanation has been offered by the prosecution, in the considered opinion of this Court, the points urged by him may be appreciated only during the course of hearing of appeal and considering the gravity of the occurrence and the manner in which it is committed, this Court is of the considered view that this is not a fit case for suspending the substantive sentence of imprisonment, pending disposal of the appeal.

7. In the result, this Criminal Miscellaneous Petition is dismissed.

-sd/-
22/02/2019

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 SESSIONS JUDGE
MAGALIR NEEDHIMANDRAM, (FAST TRACK MAHILA COURT)
TIRUVALLUR

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI

3 THE INSPECTOR OF POLICE,
M7, MANALI NEW TOWN POLICE STATION,
TIRUVALLUR DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to M/S.R.ANAND Advocate on payment of necessary charges

Order

in
CRL MP.1885/2019
IN CRL.A.69 OF 2019
Date :22/02/2019

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RD 28/02/2019