

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Eighth day of May Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice N. ANAND VENKATESH

CRIMINAL MISCELLANEOUS PETITION No.6383 of 2019

IN CRL A.254/2019

RAJA

[PETITIONER]

Vs

THE INSPECTOR OF POLICE
GUDIYATHAM TOWN POLICE STATION,
VELLORE DISTRICT.
CR.NO.31 OF 2017

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.254/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed against the petitioner in SC No.36/2018 on the file of the learned Additional District and Sessions Judge (Fast Track Court, Vellore, Vellore Dt dated 28.02.2019 and enlarge the petitioner on bail pending disposal of the said Crl.A.No.254/2019.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Appeal No.254/2019 on the file of the High Court and upon hearing the arguments of M/S.S.THIRUVENKADAM, Advocate for the petitioner and of MRS.M.PRABHAVATHI ADDL.PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

The Criminal Appeal has been filed as against the Judgment and sentence passed by the learned Additional District and Sessions Judge (Fast Track Court) Vellore, Vellore District in SC No.36 of 2018 dated 28.02.2019 and convicted for an offence under Sections 304(ii), 325 of IPC and sentenced to undergo rigorous imprisonment and to pay a fine of Rs.2,000/- in default to undergo rigorous imprisonment for one year and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.2,000/- in default to undergo rigorous imprisonment for one month for the offence under Section 325 of IPC and both the sentences are ordered to run concurrently. Pending appeal, the petitioner has filed the above miscellaneous petition seeking suspension of substantive sentence of imprisonment.

2. The learned counsel for the petitioner submitted that there is a material contradiction available between the evidence of PW1 and PW12 regarding the place of occurrence, date of occurrence and date of complaint. The learned counsel further submitted that there was an inordinate delay in the FIR reaching the Court nearly after one month

from the registration of FIR and this delay has not been explained. The learned counsel also brought to the notice of this Court, the material contradiction of the evidence of the prosecution witnesses PW1, PW2, PW4, PW5, PW11 and PW12. The learned counsel further submitted that there was no eye-witness, who spoke about the manner in which, the deceased was attacked since even as per the case of the prosecution PW4, who is the injured person had fainted immediately after he was attacked. The learned counsel appearing for the petitioner submitted that the petitioner has a fair chance of success in the appeal and there are arguable points involved in the Appeal. The learned counsel further submitted that the petitioner has already deposited the fine amount of Rs.4,000/- before the Court below.

3. The learned Additional Public Prosecutor submitted that the Court below has appreciated the entire evidence and has given elaborate reasons for convicting and sentencing the petitioner.

4. This Court carefully considered the submissions made on either side.

5. Considering the facts and circumstances of the case and in view of the fact that there are arguable points which require a consideration in the appeal and the appeal cannot be taken up for hearing in the near future, this Court is inclined to suspend the sentence imposed by the Court below.

4. The sentence imposed by the Court below vide Judgment made in SC No.36 of 2018 dated 28.02.2019 on the file of Additional District and Sessions Judge (Fast Track Court) Vellore, Vellore District is hereby suspended and the petitioner is directed to be enlarged on bail, on condition that the petitioner 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 Judicial Magistrate, Gudiyatham and to appear before the learned Judicial Magistrate, Gudiyatham, on the first working day of every week at 10.30 a.m. until further orders.

-sd/-

08/05/2019

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 ADDITIONAL DISTRICT AND
SESSIONS JUDGE[FAST TRACK COURT]
VELLORE, VELLORE DISTRICT

<https://hcservices.ecourts.gov.in/hcservices/>

2 THE JUDICIAL MAGISTRATE,
GUDIYATHAM

3 THE CHIEF JUDICIAL MAGISTRATE
VELLORE[FOR INFORMATION]

4 THE INSPECTOR OF POLICE
GUDIYATHAM TOWN POLICE STATION,
VELLORE DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT,
CENTRAL PRISON,VELLORE

+1 C.C. to M/S.S.THIRUVENKADAM Advocate on payment of necessary
charges SR.NO. 9380

Order

in
CRL MP.6383/2019

in
CRL A.254/2019

Date :08/05/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 10/05/2019

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