

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.6409 of 2019

IN CRL A.255/2019

NANDU @ DOWLATH

[PETITIONER / APPELLANT / ACCUSED]

Vs

STATE, REP. BY THE [RESPONDENT]
THE INSPECTOR OF POLICE,
PAPPARAPATTI POLICE STATION,
DHARMAPURI DISTRICT.
CR.NO.251 OF 2016

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.255/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence made in S.C.No.45 of 2017 dated 29.01.2019 on the file of the Additional Sessions Judge, Dharmapuri and enlarge the petitioner on bail pending Crl.A.No.255/2019 on the file of this Honourable Court in pursuance to the Crime No.251 of 2016

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.255/2019 on the file of the High Court and upon hearing the arguments of M/S.V.SAKKARAPANI, Advocate for the petitioner and of M/S.M.PRABHAVATHI, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

This Criminal Appeal has been filed as against the Judgment passed by the learned Additional Sessions Judge, Dharmapuri in SC No.45 of 2017 dated 29.01.2019 in convicting the appellant to undergo 3 years Rigorous Imprisonment and to pay a fine of Rs.1,000/- in default undergo 3 months simple imprisonment for the offence under Section 304(ii) IPC. 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 the prosecution has not proved the case beyond reasonable doubt and PW1 is a interested witness who had not witnessed the occurrence and the others who were examined as eye-witness have not deposed anything against the petitioner. The learned counsel for the petitioner submitted that even as per the case of the prosecution, the petitioner had merely pushed the deceased who fell down and sustained head injuries and therefore, the learned counsel for the petitioner submitted that a case for culpable homicide not amounting to murder, has not been made out by the prosecution. 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.1000/- 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.

6. The sentence imposed by the Court below vide Judgment made in SC No.45 of 2017 dated 29.01.2019 on the file of Additional Sessions Judge, Dharmapuri 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, Pennagaram and to appear before the learned Judicial Magistrate, Pennagaram on the first working day of every week at 10.30 a.m., until further orders.

WEB COPY
-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 SESSIONS JUDGE,
DHARMAPURI.

2 THE JUDICIAL MAGISTRATE,
PENNAGARAM.

3 THE CHIEF JUDICIAL MAGISTRATE
DHARMAPURI [FOR INFORMATION]

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE
PAPPARAPATTI POLICE STATION,
DHARMAPURI DISTRICT.

+1C.C. to M/S.V.SAKKARAPANI Advocate on payment of necessary
charges SR NO.9243

Order

in
CRL MP.6409/2019

in
CRL A.255/2019

Date :08/05/2019

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

MK:09/05/2019

सत्यमेव जयते

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