

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Wednesday, the Eighteenth day of September Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION No.6674 of 2019

IN CRL.A.NOS.278 /2019

JANA @ JANAGARAJ

[ PETITIONER ]

Vs

THE INSPECTOR OF POLICE  
TIRUPUR SOUTH POLICE STATION,  
TIRUPUR

[ RESPONDENT ]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.278/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the Appellant vide the judgment dated 05.10.2018 in SC No.47 of 2018 on the file of Principal District and Sessions Court, Tirupur and enlarge him on bail pending disposal of the appeal and pass such further or other orders.[CRL.MP.NO.6674/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.278/2019 on the file of the High Court and upon hearing the arguments of M/S.BALAJI THIRUMOORTHY, Advocate for the petitioner and of MR.M.MOHAMED RIYAZ, ADDL. PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

1. The Criminal Miscellaneous Petition has been filed by the Appellant/A1, to suspend the sentence of imprisonment imposed in the judgment dated 05.10.2018 made in S.C.No.47/2018, on the file of the Principal District and sessions Court, Tirupur, pending disposal of the appeal.

2. This Court heard the learned counsel on either side and also perused the materials placed on record.

3. The Appellant/A1 was found guilty for the offences under Sections 392 r/w 397 and 506 (ii) IPC and he had been convicted and sentenced as under:

| S.N<br>o.                                      | Conviction             | Sentence                                                                   |
|------------------------------------------------|------------------------|----------------------------------------------------------------------------|
| 1.                                             | U/s.392 r/w 397 of IPC | 7 years R.I and fine of Rs.2,000/- in default to undergo R.I for 6 months. |
| 2.                                             | U/s.506 (ii) of IPC    | 6 Months R.I and fine of Rs.500/- in default to undergo R.I for 1 month.   |
| The sentences were ordered to run concurrently |                        |                                                                            |

4. The case of the prosecution is that on 20.01.2018, at about 11.00 a.m., the Appellant/A1 & A2, when the complainant Manikandan was proceeding in Sarmiyam Sahib Street at Tiruppur from South to West, conversing over his cellphone, the Appellant/A1 as a pillion rider came in the Bajaj Pulsar Motorcycle bearing registration Nso.TN42 P 3733, driven by A2, in the opposite direction and waylaid the complainant and threatened him to part with all his belongings. When the complainant answered in negative, A1 kept the knife on the neck of the complainant and took away a cash of Rs.3,00/-. When the complainant raised a hue and cry, the general public gathered and they were also threatened by the accused, by brandishing knife and thereby, they committed the above said offences.

4. The learned counsel for the Appellant/A1 would submit that there are several infirmities and inconsistencies found in the case of the prosecution and that he has got a fair chance of succeeding in the appeal and would submit that the petitioner is aged about 19 years and he was convicted on 05.10.2018 and he is inside the prison for about ten months. He would further submit that the co-accused in this case, one Karthikeyan, who is similarly placed to that of the petitioner, was granted suspension of sentence and bail, by this Court by order dated 04.01.2019 in CrI.M.P.No.14314 of 2018 in CrI.A.No.662 of 2018 and hence on parity, the petitioner is also entitled to grant of suspension of sentence and bail.

5. The learned Additional Public Prosecutor would vehemently oppose for grant of suspending the sentence.

6. Though this Court is reluctant to grant suspension of sentence in a case of this nature, since the co-accused, who is similarly placed as that of the petitioner, has been granted suspension of sentence and bail, by this Court, this Court is of the opinion that the petitioner is also entitled for the same, on the ground of parity.

7. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, the substantive sentence of imprisonment alone is suspended and the Petitioner/ accused is ordered to be enlarged on bail, on the following conditions:-

i.The Petitioner/ accused shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties, each (one of the surety must be the petitioner's mother) for a like sum to the satisfaction of the learned Judicial Magistrate, No.II, Tiruppur.

ii. The Petitioner//accused shall report before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

-sd/-

18/09/2019

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 PRINCIPAL DISTRICT AND  
SESSIONS COURT, TIRUPUR

2 THE JUDICIAL MAGISTRATE,  
NO.II, TIRUPPUR

3 THE CHIEF JUDICIAL MAGISTRATE  
TIRUPPUR[FOR INFORMATION]

4 THE INSPECTOR OF POLICE  
TIRUPUR SOUTH POLICE STATION, TIRUPUR

5 THE SUPERINTENDENT,  
CENTRAL PRISON, COIMBATORE

6 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

+2 C.C. to M/S.BALAJI THIRUMOORTHY Advocate on payment of  
necessary charges SR.NO. 19452

WEB COPY

Order

in

CRL MP.6674/2019

IN CRL.A.NOS.278 /2019

Date :18/09/2019

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RD 25/09/2019

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