

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Ninth day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

CRIMINAL MISCELLANEOUS PETITION No.7163 of 2019

IN CRL A.4/2019

V.SUBRAMANIAN

[PETITIONER / APPELLANT /ACCUSED]

Vs

STATE REP. BY,
INSPECTOR OF POLICE,
CHOZHATHARAM POLICE STATION,
SRIMUSHNAM,
CUDDALORE DISTRICT.
CR.NO.72 OF 2013

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.4/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner/appellant by the judgment dated 18.12.2018 made in SC No.156 of 2014 passed by the learned Principal District and Sessions Judge, Cuddalore enlarge them on bail in CRL A.4/2019 [IN CRL.MP.NO.7163 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.4/2019 on the file of the High Court and upon hearing the arguments of M/S.D.ASHOK KUMAR SENIOR COUNSEL FOR M/S.P.PALANINATHAN, Advocate for the petitioner and of M/S. KRITIKA KAMAL P, Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

The petitioner along with four others faced prosecution in S.C.No.156 of 2014 before the Sessions Court, Cuddalore for the offence under Section 147, 294(b), 341, 323, 307 and 302 IPC r/w Section 149 IPC. However, the trial Court convicted and sentenced A2 to A5 for lesser offence i.e., under Section 323 and 324 IPC, but convicted subramanian/A1 under Section 304(I) IPC and sentenced him to undergo 10 years rigorous imprisonment. The conviction and sentence was imposed on 18.12.2018 and since then, the petitioner is in incarceration. Challenging the conviction and sentence, the petitioner has filed the present petition seeking suspension of sentence.

2.Heard Mr.D.Ashok Kumar, learned counsel for the petitioner and Mrs.P.Kritika Kamal, learned Government Advocate (Crl. Side) appearing for the respondent.

3. On reading the findings of the trial Court, it is seen that the injured witnesses have stated to the Doctor who treated them that they were attacked by 20 persons with soda bottle, beer bottle and knife. It may be appropriate to extract the following paragraph from the trial Court judgment:

"PW12 Dr. Saravanakumar is working as Senior Surgeon, G.H. Chidambaram and on 26.03.2013 at about 2.30 a.m., when he was on duty, one Sanjeevi aged about 31 was brought by one Jayabal and his relatives who have stated that on 25.03.2013, at about 11.00 p.m., 20 identified persons assaulted the said Sanjeevi with soda bottle, beer bottle and knife near his house. When PW12 examined the said Sanjeevi, he was unconscious and noticed the smell of alcohol. He found that a lacerated injury on his head 3 x 1 cm. Considering his body condition, he was referred to higher treatment."

Thus, it appears that the deceased Sanjeevi was in an inebriated condition, when the incident had taken place and that he had suffered two injuries, of which viz., 3 x 1 cm lacerated injury on head turned out to be fatal. There is no material to show that knives were used in the attack.

4. Considering the facts and circumstances of the case and also considering the submission of the learned counsel for the petitioner that there are several infirmities in the prosecution case in respect of the petitioner and that there are arguable points involved in the appeal and further, the appeal is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

5. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail on he executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only), of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned District Munsif-cum-Judicial Magistrate, Kattumannarkoil and on further condition that:

(i) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity.

(ii) the petitioner shall appear before the trial Court on the first working day of every month until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

-sd/-

09/07/2019

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 DISTRICT MUNSIF-CUM-JUDICIAL MAGISTRATE,
KATTUMANNARKOIL.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE [FOR INFORMATION]

3 THE JUDICIAL MAGISTRATE,
NO.II, PANRUTI.

4 THE SESSIONS COURT,
CUDDALORE.

5 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

7 THE INSPECTOR OF POLICE
CHOZHATHARAM POLICE STATION,
SRIMUSHNAM, CUDDALORE DISTRICT.

+1C.C. to M/S.P.PALANINATHAN Advocate on payment of necessary charges SR NO.13943

Order

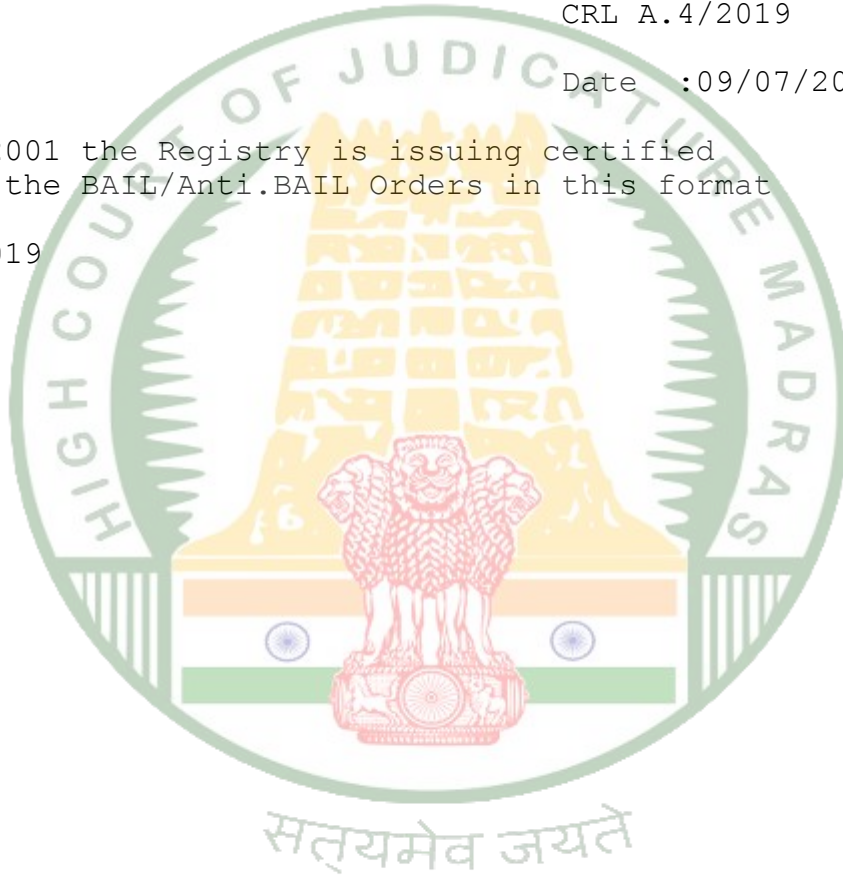
in
CRL MP.7163/2019

in
CRL A.4/2019

Date :09/07/2019

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MK:11/07/2019



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