

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Fifth day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice M.M.SUNDRESH

and

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.8680 of 2019

IN CRL A.305/2019

RAVI @ RAVICHANDRAN

[APPELLANT / SINGLE ACCUSED]

Vs

STATE REP. BY

[RESPONDENT]

INSPECTOR OF POLICE,
KANNANKURUCHI POLICE STATION,
SALEM.

(CR.NO.510 OF 2014.)

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.305/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence and release the petitioner on bail pending disposal of the criminal appeal No.305 of 2019 before this Honourable Court against the Judgment dated 29.11.2018 made in S.C.No.210/2017 on the file of Learned Sessions Judge, Mahila Court, Salem

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.305/2019 on the file of the High Court and upon hearing the arguments of M/S.K.PRAGADEESHKUMAR, Advocate for the petitioner and of MR.R.PRATHAP KUMAR ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

(Order of the Court was made by M.M.SUNDRESH,J)

The petitioner is the sole accused in S.C.No. 210 of 2017 for the offence punishable under Section 302 IPC. The trial Court, by judgment, dated 29.11.2018 convicted the petitioner for the offence under Section 302 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo six months rigorous imprisonment. Seeking suspension of sentence, the present petition has been filed.

2. The learned counsel appearing for the petitioner submits that there are no sufficient circumstances pointing out the complicity of the petitioner to the offence charged. P.W.1 has turned hostile. The presence of P.W.7 is doubtful. Even according to the prosecution, defacto complainant, P.W.1, P.W.2 and P.W.7 after having found that the hotel premises was locked, went through the backside and thereafter saw the petitioner leaving with the knife. The FIR does not specifically mention the presence of P.W.7. The trial Court has not considered the relevant materials available on record. The petitioner has been in incarceration from 08.05.2017 onwards. There are arguable points involved in the appeal. Therefore, the petition will have to be allowed.

3. The learned Additional Public Prosecutor appearing for the State would submit that it is a case of circumstantial evidence. The evidence adduced by P.W.2 and P.W.7 was found to be sufficient enough to convict the petitioner. Recovery has also been made from the petitioner. After perusing the materials available on record, the trial Court has rightly convicted the petitioner. Thus, this petition will have to be dismissed.

4. Admittedly, the petitioner has been under incarceration for more than two years. P.W.1 has turned hostile. The defacto complainant is no more and that is the reason why his deposition was not placed before the Court. The trial Court has also made reliance on the statement given under Section 161 of Cr.P.C by treating it as the one given under Section 32 of the Indian Evidence Act. We do feel that there are certain points to be agitated in the appeal.

5. Considering the above coupled with the fact that there are valuable points available in the appeal, the substantive sentence of imprisonment alone is suspended on condition that the petitioner executes 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 Judicial Magistrate, Salem and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.00 a.m., pending appeal.

-sd/-
25/07/2019

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 JUDICIAL MAGISTRATE,
SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
KANNANKURUCHI POLICE STATION,
SALEM.

+1C.C. to M/S.K.PRAGADEESHKUMAR Advocate on payment of
necessary charges SR NO.15330

Order

in
CRL MP.8680/2019

in
CRL A.305/2019

Date :25/07/2019

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copies of the BAIL/Anti.BAIL Orders in this format

MK:25/07/2019

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