

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Seventh day of August 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.9433 of 2019

IN CRL.A.NO.437 OF 2019

V.VINODH

[PETITIONER]

Vs

STATE BY
THE INSPECTOR OF POLICE,
MADURAVOYAL POLICE STATION,
CHENNAI.
CR.NO.677 OF 2015.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.437 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed against the petitioner on 05.03.2019 in SC.No.126/2016 on the file of the III Additional Sessions Court, Thiruvallur, Poonamallee and release the petitioner on bail till the disposal of the CRL.A.NO.437 OF 2019.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.437 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.P.PUGALENTHI Advocate for the petitioner and of MR.C.IYYAPPARAJ, 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.126 of 2016 on the file of III Additional and Sessions Judge, Thiruvallur at Poonamallee. The trial Court convicted the petitioner for the offence punishable under Section 302 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.5,000/- in default, to undergo rigorous imprisonment for six months. Seeking suspension of sentence, the present petition has been filed.

2.Learned counsel appearing for the petitioner submitted that even as per the case of the prosecution, the deceased and the petitioner were friends. They used to have drink regularly. The occurrence alleged to have been committed by the petitioner in view of

the fact that the deceased refused to part with money for buying liquor. There is material contradiction in the evidence of P.Ws. 1 and 2. P.W.1 has given two versions with respect to the giving of the complaint Ex.P1. First one is he went to the police station, waited for some time and thereafter gave the complaint. The other version is that such a complaint has been recorded in the hospital. The conduct of these witnesses also will have to be seen. They could not be eye witnesses. In fact, third party has admitted the deceased in the hospital as per the accident register. Considering the above, the sentence will have to be suspended.

3.Learned Additional Public Prosecutor appearing for the State submitted that though two witnesses have turned hostile and P.Ws.1 and 2 have deposed against the petitioner, they cannot be termed as interested witnesses just because they are relatives of the deceased. The contradictions are not material. Thus, the petition will have to be dismissed.

4.We do find some contradiction in the evidence of P.W.1. He has given two versions with respect to the registration of the complaint Ex.P1. Further, the accident register would show that P.Ws.1 and 2 have not admitted the deceased in the hospital. If they are eye witnesses, it is nothing but natural that these witnesses would have taken the deceased and admitted in the hospital.

5.Considering the above, we are of the view that there are arguable points involved in the appeal and we are inclined to suspend the sentence. Accordingly, 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 the learned III Additional Sessions Court, Thiruvallur, Poonamallee and on further condition that the petitioner shall appear before the concerned Court on the first working day of every month at 10.00 a.m., pending appeal.

-sd/-

27/08/2019

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 III ADDITIONAL SESSIONS COURT,
THIRUVALLUR, POONAMALLEE

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

3 THE INSPECTOR OF POLICE,
MADURAVOYAL POLICE STATION, CHENNAI.

4 THE SUPERINTENDENT,
CENTRAL PRISON-I, PUZHAL, CHENNAI

C.C. to M/S.P.PUGALENTHI Advocate on payment of necessary
charges SR.NO.17878

Order

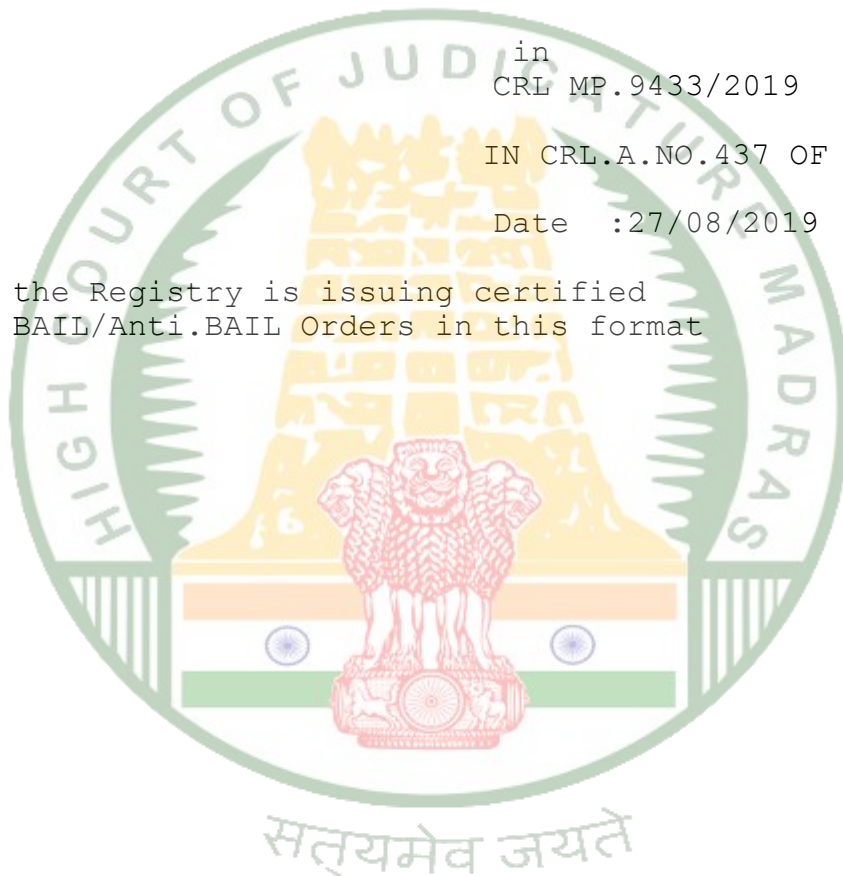
in
CRL MP.9433/2019

IN CRL.A.NO.437 OF 2019

Date :27/08/2019

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RVR 28/08/2019



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