

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Eighth day of November Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.13678 of 2019

IN CRL.A.NO.638 of 2019

NITHYA @ NITHYANANTHAM [PETITIONER/APPELLANT/ACCUSED]

Vs

STATE REP. BY [RESPONDENT/COMPLAINANT]
THE INSPECTOR OF POLICE,
E-3, TEYNAMPET POLICE STATION,
CHENNAI-18.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence of 7 years rigorous imprisonment against the petitioner/appellant for offence 304(II) IPC order dated 25.06.2019 in SC.No.49/2015 on the file of the learned court of VII Additional Sessions Judge, Chennai.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S. ANBAZHAGAN P., Advocate for the petitioner, and of M/S.M.MOHAMED RIYAZ, Additional Public Prosecutor, on behalf of the Respondent, the court made the following order:-

- 1.This Criminal Miscellaneous Petition has been filed by the Petitioner/Accused, seeking suspension of sentence of imprisonment, imposed by the Judgment, dated, 25.06.2019, made in S.C.No.49/2015, by the learned VII Additional District and Sessions Judge and enlarge him on bail, pending disposal of the criminal appeal.
- 2.This court heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and also perused the materials placed on record.
- 3.In and by the impugned judgement of the Trial Court, the petitioner/accused was convicted for the offence under Section 304 (ii) of IPC and sentenced to undergo Seven Years Rigorous Imprisonment and to pay a fine of Rs.2,000/- in default, to undergo

One Year Simple Imprisonment.

4. The learned counsel for the petitioner/accused would submit that occurrence had happened on 12.03.2014 at about 10.30 hours and the complaint was made to the respondent at 23.30 hours. The victim/deceased was originally taken to Royapettah Hospital for treatment and thereafter, he had been referred to Government Hospital for further treatment and due to failure of the treatment, he died on 14.03.2014, at 22.45 hours. Even as per the prosecution case, the alleged occurrence is stated to have happened, when the deceased had abused the mother of the petitioner and that the petitioner has committed the offences due to grave and sudden provocation. He would further submit that the petitioner was on bail during trial and he had not misused the liberty granted to him. He would further submit that since the date of conviction, the petitioner is inside the prison i.e., for the past five months and would also submit that fine amount has been paid and hence, the substantive sentence imposed against the petitioner/accused may be suspended.
5. The respondent had filed a counter and the learned Additional Public Prosecutor has raised objections for suspending the sentence.
6. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side and on perusal of the evidence on record, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on imposition of 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.25,000/- (Rupees Twenty Five Thousand only), with two sureties, each for a like sum to the satisfaction of the XVIII Metropolitan Magistrate, Saidapet, Chennai-15.

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

The Petitioner/Accused shall not enter in to the jurisdictional limits of Teynampet Police Station.

-sd/-
28/11/2019

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 VII ADDITIONAL DISTRICT
AND SESSIONS JUDGE, CHENNAI.

2 THE XVIII METROPOLITAN MAGISTRATE, SAIDAPET,
CHENNAI-15.

3 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI. [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
E-3, TEYNAMPET POLICE STATION,
CHENNAI-18.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

+1 C.C. to M/S. ANBAZHAGAN P. Advocate on payment of necessary
charges SR.NO.24564

Order

in

CRL MP.13678/2019

in

CRL.A.NO.638/2019

Date :28/11/2019

From 7.2.2001 the Registry is issuing certified
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TA-29/11/2019

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