IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Nineteenth day of December Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.15625 of 2019

IN CRL.A.No.744 of 2019

K.THIRUPATHI [PETITIONER/APPELLANT]

Vs

STATE REP.BY [RESPONDENT]
THE INSPECTOR OF POLICE,
ERODE NORTH POLICE STATION,
ERODE DISTRICT.
CR.NO.66/2015.

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 execution of sentence imposed on the petitioner/appellant by the order of the learned Mahalir Fasttrack/2nd Additional Sessions Judge of Erode in S.C.No.46 of 2017 dated 15.05.2018 pending disposal of the above CRL.A.No.744 of 2019.

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.K.THILAGESWARAN, Advocate for the petitioner, and of MR. K.PRABAKAR, Additional Public Prosecutor, on behalf of the Respondent, the court made the following order:-

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The petitioner faced trial in S.C.No.46 of 2017 on the file of learned II Additional Sessions Judge, Erode (Full in charge of Mahila Court, Erode). Under judgment dated 15.05.2018, the trial Court found the petitioner guilty under Section 306 of IPC and sentenced him to undergo Rigorous imprisonment for a period of ten years and to pay a fine of Rs.10,000/-, in default, to undergo simple imprisonment for a further period of one year. Aggrieved over the same, the petitioner has filed this Criminal Appeal along with the petition seeking suspension of sentence.

2.It is submitted by the learned counsel for the petitioner/accused that the amount of fine had already been paid, as directed by the trial Court in its judgment and he has also produced a receipt before this Court to that effect. The learned counsel

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further submitted that there are several infirmities and inconsistencies in the prosecution case and there are also contradictions in material particulars in the evidence of the prosecution. The learned counsel also submitted that there are arguable points available in this Criminal Appeal, which is not likely to be taken up for final hearing in the near future and hence, the substantive sentence imposed against the petitioner may be suspended.

3.Heard learned Additional Public Prosecutor on the submissions made by the learned counsel for petitioner.

4.Considering the facts and circumstances of the case and taking into account the submissions made by the learned counsel on either side, this Court is of the view that the petitioner herein can be granted the relief of suspension of sentence.

5.Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner herein is directed to be enlarged on bail on the following conditions:-

a) The Petitioner/Accused is directed to execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned II Additional Sessions Judge, Erode (Full in charge of Mahila Court, Erode);

b) The Petitioner/Accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities; and

c) The Petitioner/ Accused shall appear before the Trial Court on the first working day of every month at 10.30 a.m., until the disposal of the Appeal and if he is not able to appear before the Trial Court on any day, due to unavoidable circumstances, he shall make arrangements to file an application under Section 317 of Cr.PC. and shall appear before the Trial Court on any other day in lieu of his absence, as directed by the Trial Court. Such an application shall not be entertained often.

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-sd/-
19/12/2019

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

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TO

1 THE II ADDITIONAL SESSIONS JUDGE, ERODE
(FULL IN CHARGE OF MAHILA COURT, ERODE).

2 THE INSPECTOR OF POLICE,
ERODE NORTH POLICE STATION,
ERODE DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

+1 C.C. to M/S.K.THILAGESWARAN Advocate on payment of necessary charges SR.NO.26236

Order

in

CRL MP.15625/2019

in

CRL.A.No.744/2019

Date :19/12/2019

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