

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Third day of December Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice R.SUBBIAH

and

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL MISCELLANEOUS PETITION No.15754 of 2019

IN CRL.A.NO.563 OF 2019

1 RAJESH

[APPELLANTS / ACCUSED]

2 HOTEL MANI @ MANIKANDAN

Vs

STATE REP.BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
NAMAKKAL POLICE STATION,
NAMAKKAL DISTRICT.
CRIME NO.98 OF 2017.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.563 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence and enlarge the petitioners on bail imposed in S.C.No.91/2018 dated 06.08.2019 on the file of the Additional District and Sessions Court, Namakkal pending disposal of the above Crl.A.No.563/2019. [IN CRL.MP.NO.15754 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.563 OF 2019 on the file of the High Court and upon hearing the arguments of MR.N.R.ELANGO SENIOR COUNSEL FOR M/S.S.KOLANDASAMY, Advocate for the petitioner and of M/S.M.PRABHAVATHI, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

Petitioners/A6 and A7 along with six others faced trial in S.C.No.91 of 2018 on the file learned Additional District and Sessions Judge, Namakkal. Trial Court, under judgment dated 06.08.2019, convicted the petitioners and sentenced them as follows:

Accused	Offence	Sentence
A6 and A7	147 IPC	3 months R.I.
	302 r/w 149 IPC	Life imprisonment and fine of Rs.1,000/- each i/d 3 months R.I.
	324 (2 counts) r/w 149 IPC	3 months R.I.

Trial Court directed that sentences run concurrently. Hence, petitioners seek suspension of sentence.

2. Learned senior counsel for petitioners submits that the overtact attributed against the petitioners herein is that they caught hold of the *de facto* complainant to facilitate A1 to stab the deceased using a knife. Though PW-1/*de facto* complainant has stated in the complaint that petitioners herein have caught hold of him, the same was not spoken to in the course of his evidence. Likewise, PWs.3 and 4 have also not spoken that petitioners have caught hold of the *de facto* complainant. Further, in the Accident Register, the names of the petitioners herein have not been mentioned. Learned senior counsel submits that the petitioners are presently confined at Central Prison, Coimbatore, and they are in prison for the past four months. Learned senior counsel submits that there are several infirmities and inconsistencies found in the prosecution case. It is contended that there are contradictions in the material particulars between the evidence of the prosecution witnesses. Learned senior counsel further submits that the petitioners have paid the fine amount.

3. Learned Additional Public Prosecutor vehemently opposes to grant suspension of sentence to the petitioners.

4. Considering the facts and circumstances of the case and in view of the fact that the petitioners have been in custody for four months, that there are several infirmities in the prosecution case and there are arguable points involved in the appeal, as contended by learned senior counsel for petitioners and further the appeal is not likely to be taken up for final hearing in the near future, this Court is of the considered view that the petitioners herein are entitled to the relief of grant of suspension of sentence.

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Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioners are directed to be enlarged on bail on condition that each of the petitioners shall execute a bond in a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate I, Namakkal and on further condition that the petitioners shall appear before the said Court on the first working day of every month at 10.30 a.m. pending appeal.

-sd/-
03/12/2019

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,
NO.I, NAMAKKAL.

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL [FOR INFORMATION]

3 THE ADDITIONAL DISTRICT AND
SESSIONS JUDGE, NAMAKKAL.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

5 THE INSPECTOR OF POLICE,
NAMAKKAL POLICE STATION,
NAMAKKAL DISTRICT.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1C.C. to M/S.S.KOLANDASAMY Advocate on payment of necessary charges SR NO.24887

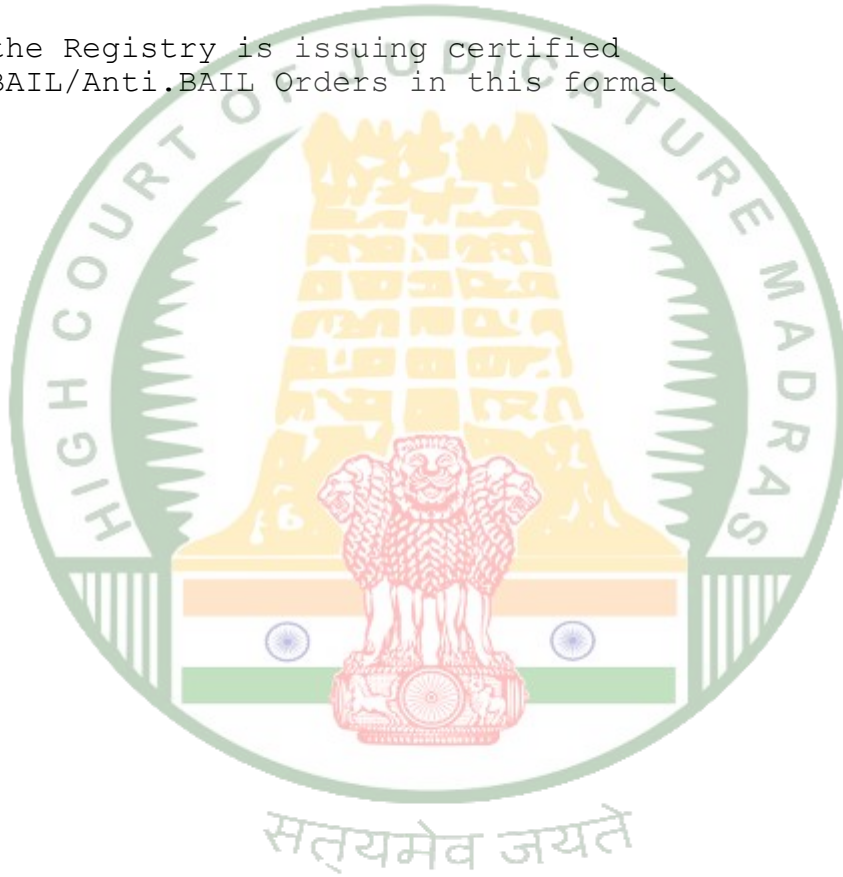
Order

in
CRL MP.15754/2019
in
CRL A.563/2019

Date :03/12/2019

From 7.2.2001 the Registry is issuing certified copies of the BAIL/Anti.BAIL Orders in this format

MK:03/12/2019



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