

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Third day of October Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.15203 of 2019

IN CRL A.731/2019

KIRUTHIGA

[PETITIONER / APPELLANT]

Vs

STATE REP BY

[RESPONDENT]

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

CRIME NO.287 OF 2017

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.731/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence made in Judgment dated 26.09.2019 in S.C.No.183/2018 passed by the learned Principal Sessions Judge, Namakkal and enlarge on bail, CRL A.731/2019 [IN CRL.MP.NO.15203 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.731/2019 on the file of the High Court and upon hearing the arguments of M/S.S.N.ARUNKUMAR, Advocate for the petitioner and of MR.M.MOHAMED RIYAZ, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

This Criminal Miscellaneous Petition has been filed by the Petitioner/Appellant seeking suspension of sentence of imprisonment imposed by the judgement dated 26.09.2019 in Spl.S.C.No.183 of 2018 by the learned Principal Sessions Judge, Namakkal and enlarge him on bail, pending disposal of the appeal.

2. This Court heard the learned counsel on either side and also perused the materials placed on record.

3. In and by the impugned judgement, the petitioner/Accused was convicted for the offence under Section 304(1) of IPC and has been sentenced to undergo one year of rigorous imprisonment and also to pay a fine of Rs.5,000/- and in default to undergo 3 months simple imprisonment. Aggrieved against the same, the petitioner has preferred the present appeal. Pending disposal of the appeal, the present Miscellaneous Petition has been filed praying to suspend the sentence.

4. According to the learned counsel for the Petitioner/accused, there are arguable points available in the Criminal Appeal, which is not likely to be taken for final hearing in the near future and the Petitioner/accused has got a fair chance of succeeding in the Criminal Appeal and hence, the substantive sentence imposed against the Petitioner/Accused may be suspended. He would submit that the trial Court has not suspended the sentence and the petitioner is now confined in Central Prison for Women at Coimbatore. However, he would submit that the petitioner/appellant has paid the fine amount of Rs.5,000/-

6. The learned Additional Public Prosecutor would submit that the petitioner/ appellant has been tried for the offence under Sections 302, 309 of IPC. However, the trial Court convicted the petitioner for the offence under Section 304 (1) IPC alone and sentenced her to undergo one year of rigorous imprisonment.

7. Taking into consideration the facts of the case and the submissions made by the learned counsel for the petitioner/appellant and that the petitioner being a lady and convicted to undergo imprisonment for one year and now in custody, this Court is of the view that the substantive sentence of imprisonment can be suspended and the petitioner be released on bail on imposing certain conditions. Accordingly, till the disposal of the Criminal Appeal, the substantive sentence of imprisonment alone is suspended and the Petitioner/ appellant is ordered to be enlarged on bail, on the following conditions:-

- a) The Petitioner/Accused is ordered to be released on bail, on his executing 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 Judicial Magistrate-I, Namakkal.
- 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.

c) The Petitioner/Accused shall appear before the Trial Court at 10.30 a.m. on the first working day of every month, until the disposal of the appeal and if she is not able to appear before the Trial Court on any day, she 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 the date of her absence, as directed by the Trial Court.

-sd/-
23/10/2019

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

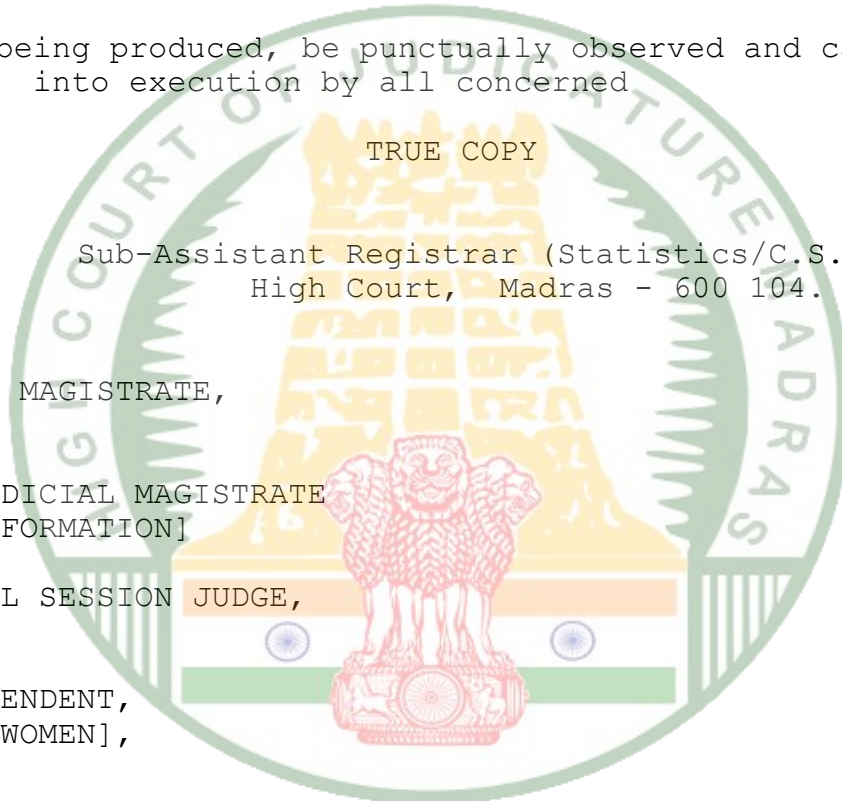
2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL [FOR INFORMATION]

3 THE PRINCIPAL SESSION JUDGE,
NAMAKKAL.

4 THE SUPERINTENDENT,
CENTRAL PRISON [WOMEN],
COIMBATORE.

5 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
ERUMAPATTI POLICE STATION,
NAMAKKAL DISTRICT



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+1C.C. to M/S.S.N.ARUNKUMAR Advocate on payment of necessary charges SR NO.21834

Order

in
CRL MP.15203/2019

in
CRL A.731/2019

Date :23/10/2019

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

MK:23/10/2019



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