

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Tenth day of June 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.15882 of 2018

in CRL.A.No.766 of 2018

G.SATHISH @ SATHISHKUMAR

[APPELLANT / ACCUSED]

Vs

THE INSPECTOR OF POLICE
KANNANKURICHI POLICE STATION,
SALEM DISTRICT.
CRIME NO.473 OF 2014.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.No.766 of 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence of 1st Additional Session Judge Salem in SC.85 of 2015 dated on 06.02.2016 and enlarge him on bail.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.No.766 of 2018 on the file of the High Court and upon hearing the arguments of M/S.J.STAR, Advocate for the petitioner and of MR.R.PRATHAP KUMAR 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 stands convicted for the offence under Section 120 B IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.1000/- in default to undergo six months rigorous imprisonment and for the offence under Section 302 IPC r/w 34 IPC, sentenced to undergo life imprisonment and to pay a fine of Rs.1000/- in default to undergo six months rigorous imprisonment and for the offence under Section 506(ii) IPC r/w 34 IPC, sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.500/-, in default, to undergo six months rigorous imprisonment and the sentences are ordered to run concurrently.

2. Seeking suspension of the above sentence of imprisonment imposed in S.C.No.85 of 2015 on the file of the I Additional Sessions Judge, Salem, the petitioner has come forward with this petition.

3. The petitioner has been arrayed as A3 in S.C. No.85 of 2015 on the file of the I Additional Sessions Court, Salem. The case of the prosecution is that the deceased was doing business of supplying water cans and there was a quarrel between the wife of the A1 and the deceased. A1 and A3 went to the house of the deceased and indulged in further quarrel. On 06.11.2014, all the three accused including the petitioner attacked the deceased and committed the offence. The petitioner who has been arrayed as A3 along with A2 caught hold of the deceased. There are four eye witnesses. PW7 is the one who took the deceased to the hospital. The Trial Court after considering the materials available on record convicted the petitioner for the offences mentioned above.

4. The learned counsel appearing for the petitioner submitted that the overt act attributed against the petitioner is only catching hold of the deceased. There are many arguable points in the appeal and the petitioner has been incarcerated for more than 3 ½ years and therefore, the sentence will have to be suspended.

5. The learned Additional Public Prosecutor submits that there are four eye witnesses involved. The motive has been established. The evidence of all the four eye witnesses corroborates with that of the medical report. Thus, the petition has to be dismissed.

6. We do find several issues involved to be decided in the appeal. The overt act attributed against the petitioner is that he along with A2 caught hold of the deceased while A1 attacked him and committed the offence. The petitioner is in incarceration from the date of the judgment i.e., 06.02.2016. In such view of the matter, we are inclined to suspend the sentence.

7. Accordingly, the substantive sentence of imprisonment alone is suspended on condition 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 I Additional Sessions Judge, Salem and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.00 a.m., pending appeal.

-sd/-

10/06/2019

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

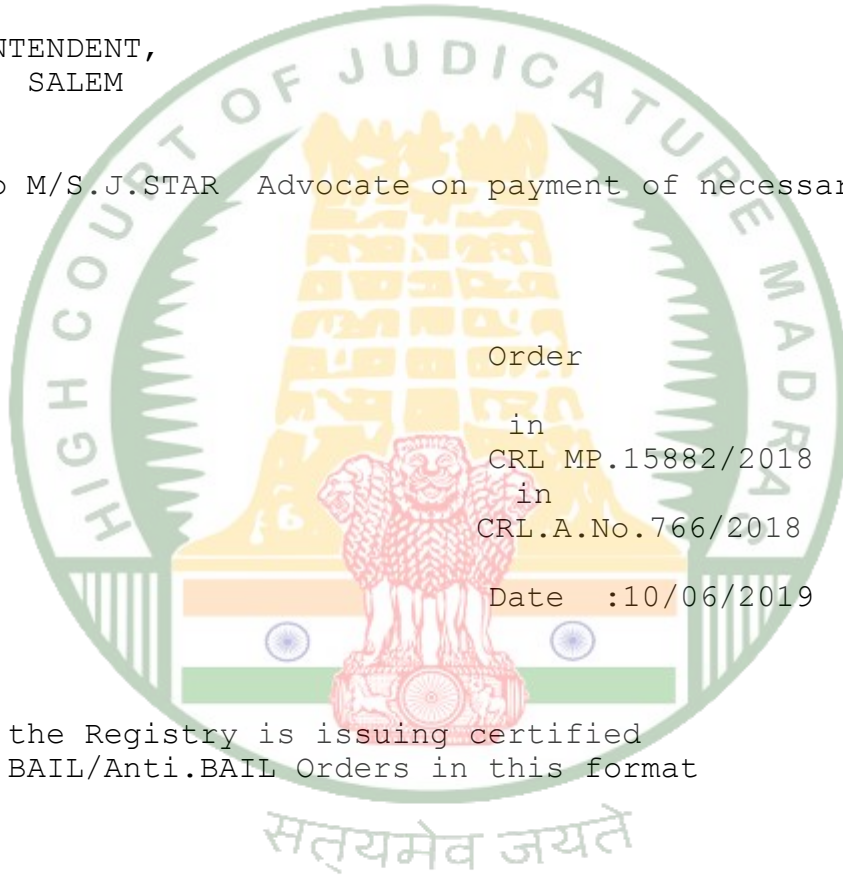
1 THE I ADDITIONAL SESSIONS JUDGE,
SALEM

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE
KANNANKURICHI POLICE STATION,
SALEM DISTRICT

4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

+1 C.C. to M/S.J.STAR Advocate on payment of necessary charges
SR.NO.11163



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

cm 11/06/2019

WEB COPY