

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Thirtieth day of January Two Thousand Nineteen

PRESENT

The Hon'ble Mr Justice V. PARTHIBAN

CRIMINAL MISCELLANEOUS PETITION No.16597 of 2018

IN CRL A.734/2018

MARIAPPAN

[PETITIONER]

Vs

STATE INSPECTOR OF POLICE,
SALEM TOWN POLICE STATION,
SALEM DISTRICT.
CR.NO.164 OF 2016

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.734/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment and sentence of fine made in S.C.No.411 of 2016 on the file of the III Additional Sessions Court, Salem by order dt 31.10.2018 and release the Petitioner/Accused on bail, pending disposal of the above Crl.Appeal.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.734/2018 on the file of the High Court and upon hearing the arguments of M/S.A.PADMANABAN Advocate for the petitioner and of MR.V.SARATHA DEVI Government Advocate on behalf of the Respondent the court made the following order:-

The petitioner is the sole accused in Sessions Case No.411 of 2016, on the file of the III Additional Sessions Court, Salem. By judgment dated 31.10.2018, he was convicted for offence under Sections 294(b) and 304(II) of the Indian Penal Code. The maximum sentence imposed on the petitioner is ten years Rigorous Imprisonment for the offence under Section 304(II) IPC, with usual default clause. Challenging the said conviction and sentence, the petitioner has filed the above appeal. Pending appeal, he seeks for suspension of sentence.

2.The learned counsel for the petitioner would submit that there was a quarrel between the petitioner and the deceased in a wine shop and in the said dispute, the petitioner/accused alleged to have dashed the head of the deceased on a wall, in which, the deceased sustained injuries. The learned counsel would further submit that the petitioner has not committed any such offence and he has been falsely implicated in this case. He would also submit that in a

wordy quarrel between the petitioner and the deceased, the deceased sustained injuries and subsequently died. It is also the submission of the learned counsel that there are several infirmities and inconsistencies in the prosecution case. It is contended that there are contradictions in the material particulars between the evidence of the prosecution witnesses. Hence, the learned counsel would pray for suspending the sentence.

3. Heard the learned Government Advocate (Criminal Side) on the submissions made by the learned counsel for petitioner. She would submit that there was a quarrel between the petitioner and the deceased in a wine shop. In the said quarrel, the petitioner/accused dashed the head of the deceased on a wall and subsequently he succumbed to injuries. The incident was spoken to by P.W.4, who was in the wine shop at the time of occurrence and he is the direct eye witness to the occurrence. There are clinching materials available on record pointing the guilt of the accused. Therefore, the learned Government Advocate prays for dismissing the petition.

4. Considering the facts and circumstances of the case and in view of the fact that there are several infirmities in the prosecution case and there are arguable points involved in the appeal, as contended by learned counsel for petitioner, 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 petitioner herein is entitled to the relief of grant of suspension of sentence.

5. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute 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 the learned Judicial Magistrate No.1, Salem and on further condition that the petitioner shall appear before the said Court once in a week i.e. on every Monday at 10.30 a.m. pending disposal of the appeal.

-sd/-
30/01/2019

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, SALEM

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM[FOR INFORMATION]

3 THE III ADDL,SESSIONS COURT
SALEM

4 THE SUPERINTENDENT,
CENTRAL PRISON,COIMBATORE

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 STATE INSPECTOR OF POLICE
SALEM TOWN POLICE STATION,
SALEM DISTRICT.

C.C. to M/S.A.PADMANABAN Advocate on payment of necessary
charges

Order

in
CRL MP.16597/2018

in
CRL A.734/2018

Date :30/01/2019

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copies of the BAIL/Anti.BAIL Orders in this format
RD 04/02/2019

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