



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the First day of March Two Thousand Nineteen

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP (MD) No.1780 of 2019

IN

CRL A (MD) No.340 of 2009

ASHOK KUMAR @ ANTHONY SAMY

... PETITIONER/ APPELLANT

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
SEEVALPERI POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO.89/2007)

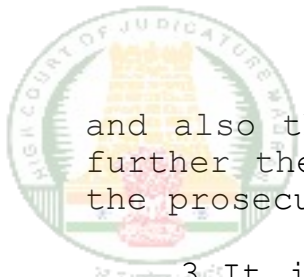
... RESPONDENT/ COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence and grant bail to the Appellant/ Accused against the Judgment dated in S.C.No.181 of 2008 on the file of the Learned Sessions Judge, Mahalir Court, Tirunelveli, Tirunelveli District in Cr.No.89 of 2007 on the file of the respondent police pending disposal of the instant Crl.A.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.T.LAJAPATHI ROY, Advocate for the petitioner and of Mr.A.ROBINSON, Government Advocate(Crl.Side) on behalf of the Respondent, the court made the following order:-

The learned counsel for the petitioner submitted that the petitioner has been convicted by the learned trial Judge for the alleged offences under Section 306 I.P.C and sentenced to undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs.2,500/- in default to undergo rigorous imprisonment for a further period of three months in S.C.No.181 of 2008, on the file of the learned Sessions Judge, Mahalir Court, Tirunelveli, Tirunelveli District.

2.It is submitted by the learned counsel for the petitioner on 19.01.2019, when the appeal was listed before this Court, the petitioner was unable to attend the Court and hence, this Court cancelled the suspension of sentence granted to the petitioner dated 08.11.2009 in M.P.(MD)No.1 of 2012 in Crl.A.(MD)No.340 of 2009 and hence the petitioner was arrested and remanded to judicial custody



and also there are several infirmities in the prosecution case and further there are contradictions in materials among the evidence of the prosecution witnesses.

3. It is submitted by the learned Government Advocate (criminal side) that there are enough materials available on record against the petitioner as per the evidence adduced by the prosecution and there is no infirmity in the prosecution case and prays for dismissal of this petition.

4. This Court has carefully considered the rival contentions put forward by their side and also perused the materials available on record.

5. The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

6. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that the petitioner executing 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 Sessions Judge, Mahalir Court, Tirunelveli, Tirunelveli District and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m pending appeal.

sd/-

01/03/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE SESSIONS JUDGE, MAHALIR COURT,
TIRUNELVELI, TIRUNELVELI DISTRICT.
2. THE INSPECTOR OF POLICE
SEEVALPERI POLICE STATION,
TIRUNELVELI DISTRICT.
3. THE SUPERINTENDENT, CENTRAL PRISON,
PALAYANKOTTAI, TIRUNELVELI DISTRICT.



4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

WEB COPY

ORDER

IN

CRL MP (MD) No.1780 of 2019

IN

CRL A (MD) No.340 of 2009

Date :01/03/2019

MS/JC/SAR-4/04.03.2019/3P.5C