



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

Friday, the Twelfth day of April Two Thousand Nineteen

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.1851 of 2019

IN

CRL A(MD) No.77 of 2019

V.GOPAL

... PETITIONER/APPELLANT

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE
BODI TALUK POLICE STATION,
THENI DISTRICT.
Crime No.572/2015

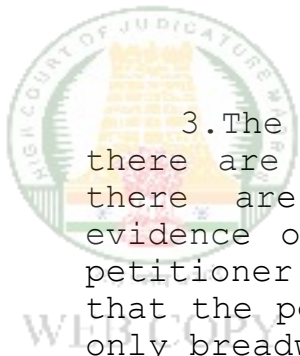
... RESPONDENT/ RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence passed by the Additional District and Sessions Court (Fast Track Court), Theni in S.C.No.86/2016 dated 07/12/2018 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.G.ANBU SARAVANAN, Advocate for the petitioner and of Mr.A.ROBINSON, Government Advocate(criminal side) on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence passed by the Additional District and Sessions Judge, (Fast Track Court), Theni in S.C.No.84 of 2016, dated 07.12.2018 and enlarge the petition on bail pending disposal of the above criminal appeal.

2.The learned counsel for the petitioner submitted that petitioner was convicted by the trial Court and imposed a fine of Rs.1,000/-, in default 3 months SI for the offence under Section 294 (b) IPC and sentenced him to undergo 7 years RI and to pay a fine of Rs.2,000/-, in default to undergo 6 months SI for the offence under Section 304(ii) IPC.



3.The learned counsel for the petitioner further submitted that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses and erred in convicting the petitioner without any substantial evidence. It is also submitted that the petitioner is in jail for more than 130 days and he is the only breadwinner of his family and that there are arguable points in the main appeal. In view of the above circumstances, the petitioner seeks the relief of suspension of sentence till the disposal of the appeal.

4.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.

5.This court has carefully considered the rival contentions put forward on either side and also perused the materials available on record.

6.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 the petitioner is in jail for the past 130 days and 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.

7.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 he 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 Additional District and Sessions Judge, (Fast Track Court), Theni, and on further condition that the petitioner shall appear before the said court daily twice I.e., at 10.30 am and 5.00 pm pending appeal.

sd/-
12/04/2019

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



TO

1. THE ADDITIONAL DISTRICT AND
SESSIONS COURT, (FAST TRACK COURT), THENI.

2. THE INSPECTOR OF POLICE
BODI TALUK POLICE STATION,
THENI DISTRICT.

3. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

+1. C.C. to Mr.G.ANBU SARAIVANAN Advocate SR.No.6699

ORDER
IN
CRL MP (MD) No.1851 of 2019
IN
CRL A (MD) No.77 of 2019
Date :12/04/2019

TK/MMS/SAR-2/16.04.2019/3P/6C