



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

Thursday, the Eleventh day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.2463 of 2019

IN

CRL A(MD) No.347 of 2018

CHANDRAN

... PETITIONER/APPELLANT/
SOLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
TEPPAKULAM POLICE STATION,
MADURAI CITY
Crime No.450/2004

... RESPONDENT/ 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 imposed on the petitioner/ appellant namely Chandran, S/o.Subbiaha Thevar by the Learned VI Additional District and Sessions Court, Madurai by its Judgment in S.C.No.304 of 2013 dated 20.07.2018 and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.M.JEGADEESH PANDIAN, Advocate for the petitioner and of Mr.R.ANANDARAJ, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the petitioner by the VI Additional District and Sessions Judge, Madurai, in SC No.304 of 2013 dated 20.07.2018 and enlarge the petitioner on bail pending disposal of the criminal appeal.

2.The learned counsel for the petitioner submitted that petitioner was convicted by the trial Court and sentenced him to undergo 5 years RI and to pay a fine of Rs.1,000/-, in default to undergo 3 months SI for the offence under Section 5 of the Explosive Substance Act, 1908. It is further submitted that the trial court failed to note that no corroboration between the statement of PW1, 2, 4, 6 and 7 and all of them deposed different version regarding the seizure theory and the independent witness (PW3) and PW5 were



turned hostile, and PW6 did not corroborate with the evidence of PW1. It is further submitted that the petitioner is affected with stroke and due to it he is taking treatment in the Prison Hospital, Madurai.

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 that the trial court erred in convicting the petitioner without any substantial evidence. It is also submitted that the petitioner is in jail since 20.07.2018 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 forth 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 since 20.07.2018 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 Judicial Magistrate No.I, Madurai 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/-

11/07/2019

/ TRUE COPY /



TO

1. THE VI ADDITIONAL DISTRICT AND SESSIONS JUDGE,
MADURAI.

2. THE JUDICIAL MAGISTRATE NO I,
MADURAI.

3. THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT,

4. THE INSPECTOR OF POLICE,
TEPPAKULAM POLICE STATION,
MADURAI CITY .

5. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

+1. C.C. to Mr.M.JEGADEESH PANDIAN Advocate SR.No.11541

ORDER

IN

CRL MP (MD) No.2463 of 2019

IN

CRL A (MD) No.347 of 2018

Date :11/07/2019

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TK/PN/SAR.2/11.07.2019/3P/8C