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

Friday, the Nineteenth day of July Two Thousand Nineteen
PRESENT

The Hon`ble Mr.Justice M.SATHYANARAYANAN
and

The Hon`ble Mr.Justice B.PUGALENDHI

CRL MP(MD) No.5744 of 2019

IN

CRL A(MD) No.10 of 2019

GOBIKANNAN
(NOW CONFINED AT
CENTRAL PRISON, MADURAI)

... PETITIONER/ APPELLANT/
ACCUSED NO.6

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
VEERAPANDI,
CRIME NO.358/2015 OF
VEERAPANDI POLICE STATION,
THENI DISTRICT.

... RESPONDENT/ RESPONDENT/
COMPLAINANT

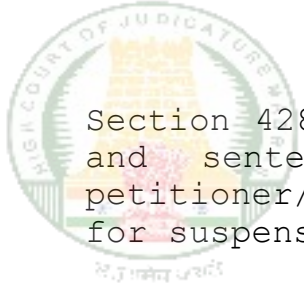
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the execution of sentence in so far as the Petitioner/ Appellant/ Accused No.6 is concern by granting bail in S.C.No.162 of 2016 dated 10.12.2018 on the file of the learned Additional District Judge (FTC), Theni, Theni District pending disposal of the main appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.J.MATHESH, Advocate for the petitioner and of MR.K.DINESH BABU, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

(ORDER OF THE COURT WAS MADE BY M.SATHYANARAYANAN, J.)

The petitioner is arrayed as A-6 and he was prosecuted along with 7 other accused in S.C. No.162/18 on the file of the Court of Addl. District Judge (FTC), and vide impugned judgment dated 10.12.2018, the petitioner was convicted for the commission of offence under Section 302 r/w 34 IPC and sentenced to imprisonment for life together with a fine of Rs.5,000/-, in default to undergo simple imprisonment for a period of six months.

2. The substantive sentence of imprisonment was directed to run concurrently and set off was also granted by the trial court under



Section 428 Cr.P.C. Challenging the legality of the said conviction and sentence, the present appeal has been filed by the petitioner/appellant and pending disposal of the appeal, has prayed for suspension of the substantive sentence of imprisonment.

3. Learned counsel appearing for the petitioner drew the attention of this Court to the common order dated 27.6.2019 in CrI. M.P. (MD) Nos.4557 and 4690 of 2019 in C.A. (MD) No.548 of 2019 and CrI. M.P. (MD) No.5398 of 2019 in C.A. (MD) No.9 of 2019 and submits that this Court, while granting suspension of sentence to A-2, A-3 and A-5, in para-2 of the said order, has recorded the fact that A-3, along with A-6 are said to have caught hold of the deceased and even according to the case of the prosecution, no overt act has been attributed to A-6, prays for suspension of substantive sentence of imprisonment. It is further submitted by the learned counsel for the petitioner/A-6 that the petitioner/A-6 is not having any bad antecedent.

4. Per contra, Mr.Chandrasekar, learned Addl. Public Prosecutor appearing for the State submits that the points urged by the learned counsel for the petitioner/appellant could be appreciated only at the time of disposal of the main appeal and prays for dismissal of the petition.

5. This Court gave its careful consideration to the submissions on either side and also perused the materials available on record.

6. A perusal of the aforesaid common order passed by this Court disclose the fact that some of the co-accused, who are said to have caught hold of the deceased, have been granted suspension of substantive sentence of imprisonment. The petitioner/appellant herein also stands on similar footing and, therefore, entitled for grant of similar relief.

7. Accordingly, the petition is allowed and the substantive sentence of imprisonment imposed on the petitioner/appellant stands suspended. The petitioner/appellant is directed to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) along with two sureties, each for a likesum, to the satisfaction of the learned Judicial Magistrate, Theni, and on further condition that the petitioner/appellant shall appear before the Committal Court, viz., the Court of Judicial Magistrate, Theni, on the first working day of every English calendar month at 10.30 a.m. until further orders.

sd/-

19/07/2019

/ TRUE COPY /



TO

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

2 THE JUDICIAL MAGISTRATE,
THENI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI.

4 THE INSPECTOR OF POLICE,
VEERAPANDI,
VEERAPANDI POLICE STATION,
THENI DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

+1 CC to M/s.K.K.SAMY, Advocate (SR-11975[I] dated 19/07/2019)

ORDER

IN

CRL MP (MD) No.5744 of 2019

IN

CRL A (MD) No.10 of 2019

Date :19/07/2019

JM/VR/SAR 3/24.07.2019/3P/8C