

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

and

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Crl. M.P. No.463 of 2020

in

Crl.A. No.22 of 2020

Ranjith Kumar

.. Petitioner/Appellant

Vs.

The State by the Inspector of Police  
Ethappur Police Station  
Salem District.  
Crime No.207 of 2018.

.. Respondent

PRAYER : Criminal Miscellaneous Petition filed under Section 389(1) of Criminal Procedure Code praying to suspend the sentence imposed on the petitioner by judgment dated 13.12.2019 in S.C. No. 430 of 2018 on the file of the I Additional District and Sessions Court, Salem and enlarge the petitioner on bail, pending disposal of the Criminal Appeal before this Court.

For Petitioner : Mr.S.N.Subramani

For Respondent : Mrs. M. Prabhavathi,  
(Additional Public Prosecutor)

O R D E R

(Order of the court was made by N.KIRUBAKARAN.J.,)

The matter is heard through "Video Conferencing".

2.This appeal has been filed by the convict against the judgment dated 13.12.2019 by which he was convicted for life imprisonment for murdering his own father namely, Ganesan on 10.05.2018 for not taking him on bail, when he was inside the prison for murdering his own brother and for not paying money for consuming liquor. Appreciating the evidence on records, the trial Court convicted the petitioner for life imprisonment. The present petition has been taken out to suspend the sentence and grant bail.

3.Mr.S.N.Subramani, learned counsel for the petitioner would elaborately argue from the evidence adduced before the trial Court stating that there is no direct evidence to confirm that the petitioner murdered his father. It is only based on circumstantial evidence. The relatives who have been examined as P.W.3 and P.W.4 turned hostile. Even P.W.7/Head Constable also turned hostile. According to the evidence of P.W.7, there is discrepancy in the timing. In the absence of any direct evidence, the convict should not have been convicted. Pointing out the loop holes and in the absence of direct evidence, the learned counsel would submit that arguable points are available and there is every chance of succeeding in the appeal. Therefore, the appellant should be enlarged on bail by imposing stringent conditions.

4.However, Mrs.M.Prabhavathi, learned Additional Public Prosecutor appearing for the respondent, on her own usual style very politely stated that the appellant is an alcoholic and he has the history of murdering his own brother. Since the appellant's father did not take any interest to take him out on bail in time in his brother's murder case and also not paid money for consuming liquor, the appellant murdered his father. Though the relatives tried to hide the murder, as if it was a natural death, based on the information given to P.W.1/V.A.O., he went along with P.W.2/Village Assistant and found injuries on the head of the deceased. Thereafter, he gave police complaint, based on which F.I.R. has been registered. She would further submit that there is a direct evidence i.e., P.W.5 friend of the deceased, who spoke about the attack of the deceased by the appellant on the previous night and when he questioned the same, the appellant replied that it is a dispute between father and son and P.W.5 should not interfere. The very next day, he heard that his friend Ganesan, father of the appellant died. Therefore, she would submit that there is direct evidence and no leniency should be shown to the accused.

5.Heard the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record.

6.It is a case of patricide, murdering the father for the sake of consuming liquor, which has become menace in the society as found by this Court in many cases coming before this Court. The appellant was charged for murdering his brother earlier. It has been spoken by the witnesses that he was angry with his father for not taking him out on bail in the case of murdering his own brother and also got frustrated because of non payment of money for consuming liquor. These are all the things which attributed the cause for committing murder and there are evidence in this regard. P.W.5 friend of the deceased clearly spoke about the quarrel on the previous day and attack of the deceased by the appellant. P.W.1/V.A.O. and

P.W.2/Village Assistant, the Government servants spoke about the injuries found on the body of the deceased. Merely because P.W.7, the Police official adduced some different timing, it cannot be a ground for consideration, while considering the suspension of sentence. These points are to be argued only at the time of final disposal.

7. Though the appellant is said to have been acquitted in his brother's murder case for lack of evidence, it is a fact that in our country, acquittal has become the norm and conviction has become an exception because of the public empathy and fear of witness to come before this Court. That is the reason why the criminal justice delivery system is coming down. Without the co-operation of the witnesses and the public, it is very difficult for the Court to get the accused, convicted. Merely because he has been acquitted in his brother's murder case, that would not absolve him. Though acquittal is a point, the said fact can also be looked in different angle that he was in the habit of picking up quarrel with brother, who is said to have been murdered and subsequently, his father who was also murdered. The appellant, in the opinion of this Court is not entitled to any leniency especially, that too for murdering his own father.

Accordingly, this petition seeking suspension of sentence is dismissed.

-sd/-  
05/08/2020

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 I ADDITIONAL DISTRICT  
AND SESSIONS COURT, SALEM.

2 THE SUPERINTENDENT,  
CENTRAL PRISON, COIMBATORE.

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,  
ETHAPPUR POLICE STATION,  
SALEM DISTRICT.

C.C. to M/S.S.N.SUBRAMANI Advocate on payment of necessary  
charges

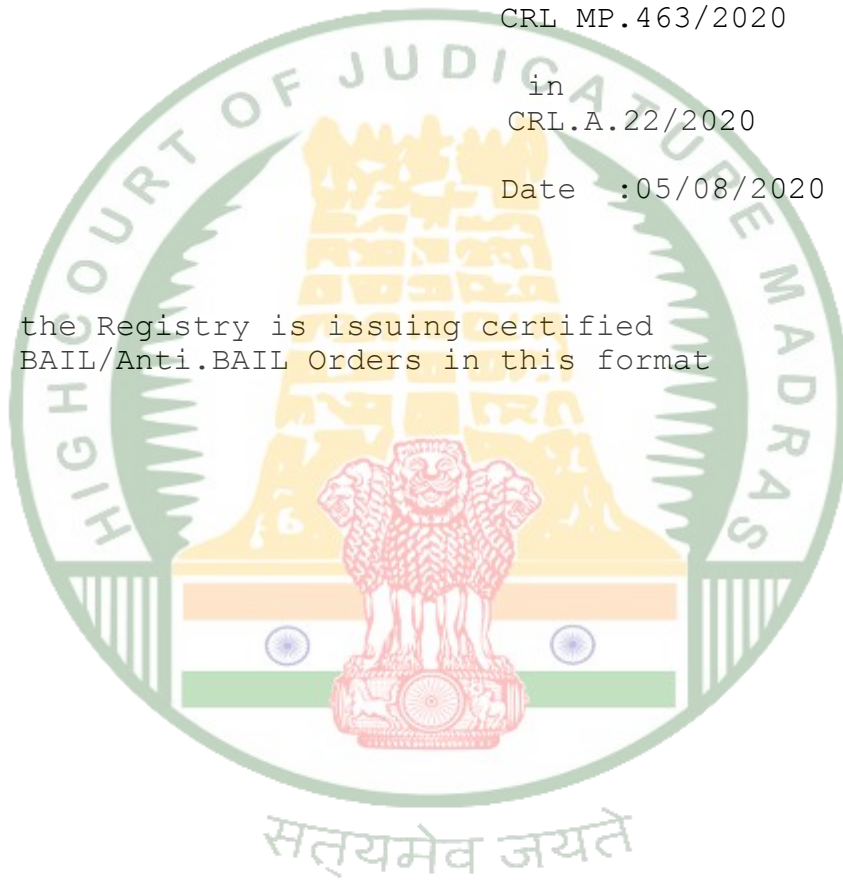
Order

in  
CRL MP.463/2020

in  
CRL.A.22/2020

Date :05/08/2020

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