

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRL MP No. 2197 of 2020
in Crl.A No. 115 of 2020

Mahabhoob Rahiman ... Petitioner

vs

The State of Tamil Nadu ... Respondent
represented by
The Inspector of Police,
Singarapettai Police Station.
(Cr.No.253 of 2017)

Petition filed under Section 389(1) of Cr PC to suspend the sentence imposed as against the petitioner in S.C.No. 71 of 2019 dated 01.02.2020 passed by the Learned Additional District and Sessions Judge, Krishnagiri and grant bail to the petitioner pending disposal of the appeal.

For Petitioner ... Mr.S.Sathish Rajan

For Respondent ... Mr.K.Prabhakar,
Addl. Public Prosecutor

ORDER

[Order of the Court was made by **M.M.SUNDRESH, J.**]

The petitioner has been arrayed as A1 in S.C.No.71 of 2019 on the file of the Additional District and Sessions Judge, Krishnagiri, along with two other accused, of which the third accused is a juvenile in conflict with law against whom separate proceedings are stated to be pending. By judgment dated 01.02.2020, the petitioner was convicted for the offence punishable under Sections 120(b), 302 and 201 r/w 302 IPC. For the offence punishable under Section 120(b) IPC, the petitioner was sentenced to undergo life imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo six months simple imprisonment, for the offence punishable under Section 302 IPC, the petitioner was sentenced to undergo life imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo six months simple imprisonment and for the offence punishable under Section 201

r/w 302 IPC, the petitioner was sentenced to undergo seven years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default to undergo six months simple imprisonment. Seeking suspension of sentence, the present petition has been filed.

2.The case of the prosecution is that the deceased was having illicit relationship with A2. Thereafter, A2 developed intimacy with this petitioner. This was questioned by the deceased. Due to the harassment caused by the deceased, all the accused joined together and committed the offence.

3.Learned counsel appearing for the petitioner submitted that except the extra-judicial confession based upon which recovery has been made, there is no other evidence to implicate this petitioner. P.Ws 1 and 2 who are none other than the wife of the father of the deceased turned hostile and also P.Ws 3,5,6 and 11. This Court has already granted suspension of sentence for A2 by order dated 09.12.2020. Thus, considering the above, this petition will have to be allowed.

4.Learned Additional Public Prosecutor appearing for the State submitted that the recovery of the dead body has been made pursuant to the submission made by this petitioner. Thus, the petition will have to be dismissed.

5.The charge is one of Sections 34 and 120-B. Therefore, prima facie, what is applicable to A2 will have to be extended to this petitioner as well. The question for consideration is as to whether the recovery stated to be made pursuant to the extra-judicial confession can be relied upon by this Court or not. Thus, considering the above and coupled with the fact that A2 has already been granted suspension of sentence while taking note of the arguable points available in the appeal, we are inclined to extend the same benefit to this petitioner as well.

6. Accordingly, the substantive sentence of imprisonment alone is suspended on condition that the petitioner executes 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 District Munsif and Judicial Magistrate, Uthankarai and on further condition that he shall report before the concerned Court on the first working day of every month at 10.30 a.m. pending appeal.

-sd/-

21/12/2020

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 ADDITIONAL DISTRICT AND SESSIONS JUDGE,
KRISHNAGIRI

2 THE DISTRICT MUNSIF AND
JUDICIAL MAGISTRATE, UTHANKARAI

3 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI. [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
SINGARAPETTAI POLICE STATION.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

C.C. to M/S. S.SATHISH RAJAN Advocate on payment of necessary
charges

Order

in

CRL MP.2197/2020

in

CRL A.115/2020

Date :21/12/2020

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