

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH

and

The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRL M.P. No.3295 of 2020

in

Crl.A No. 185 of 2020

Arumugam

..Petitioner

vs

The State Rep. by
The Inspector of Police,
Sedarapet Police Station,
Puducherry.
(Crime No. 39 of 2016)

... Respondent

Petition filed under Section 389(1) of Cr PC to suspend the sentence of imprisonment imposed in S.C.No. 05/2017 by the Principal Sessions Judge at Puducherry and enlarge the petitioner on bail pending disposal of Crl.A. No. 185 of 2020.

For Petitioner .. Mr.A. Tamilvanan

For Respondent .. Mr.Bharatha Chakravarthy
Public Prosecutor (Puducherry)

ORDER

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

The petitioner is the sole accused in S.C.No. 05 of 2017 on the file of Principal Sessions Judge, Puducherry. The trial Court by judgment dated 18.11.2019 convicted the petitioner for the offence punishable under Sections 364 and 302 IPC and sentenced him to undergo rigorous imprisonment for ten years for the offence under Section 364 IPC and to pay a fine of Rs.1000/-, in default, to undergo simple imprisonment for three months and for the offence under Section 302 IPC, he was sentenced to undergo imprisonment for life and to pay a fine of Rs.1000/-, in default, to undergo three months rigorous imprisonment. Seeking suspension of sentence imposed, the present petition has been filed.

2.Learned counsel for the petitioner submitted that it is a case of circumstantial evidence. Both the deceased and the petitioner were under the influence of alcohol.The Trial Court has not considered the evidence in the right perspective and last seen theory has not been proved. The petitioner has been under incarceration from 18.11.2019 onwards. Hence, this petition will have to be allowed.

3. Learned Public Prosecutor (Puducherry) submitted that the Trial Court rightly drew the inference against the petitioner as the body was found in his place. The witnesses have also deposed for the last seen theory. This coupled with recovery clearly establish that homicide was committed at the hands of the petitioner. Therefore, this petition will have to be dismissed.

4. The petitioner has been under incarceration for more than one year. The very case of the prosecution itself is that the deceased and the accused were under the influence of alcohol. It is a case of circumstantial evidence. Therefore, we find existence of substantial issues to be decided in the appeal. Thus, considering the above and the period of incarceration of the petitioner, which the petitioner has undergone, we are inclined to suspend the sentence.

5. 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 Principal Sessions Judge, Puducherry and on further condition that the petitioner shall report before the concerned Court on the first working day of every month at 10.30 a.m. pending appeal.

-sd/-

02/12/2020

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 PRINCIPAL SESSIONS COURT,
PUDUCHERRY

2 THE PUBLIC PROSECUTOR
PUDUCHERRY

3 INSPECTOR OF POLICE,
SEDARAPET, POLICE STATION,
PUDUCHERRY.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUDUCHERRY

C.C. to M/S.A.TAMILVANAN Advocate on payment of necessary
charges Sr.7874

Order

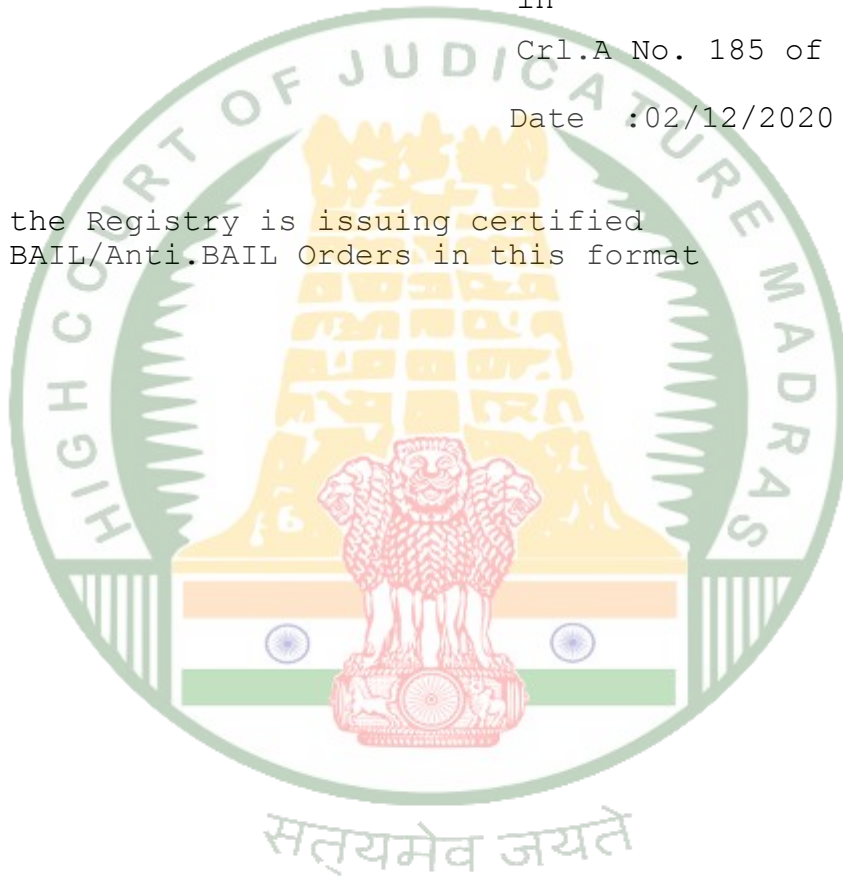
in
CRL M.P. No.3295 of 2020

in
Crl.A No. 185 of 2020

Date :02/12/2020

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RVR 02/12/2020



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