

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.M.P.No.3330 of 2020

in

Crl.A.No.188 of 2020

Venkatajalam,
S/o.kasi,
Singipuram,
Valapady,
Salem Distri

... Petitioner/Accused

Vs.

State represented by
The Inspector of Police,
Vaazhapadi Police Station
Salem District.
(Crime No.425 of 2016)

... Respondent/Complainant

Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. to suspend the sentence imposed on the petitioner by judgment and order dated 13.12.2019 passed in S.C.No.48 of 2017 on the file of the I (sic III) Additional District and Sessions Court, Salem and to enlarge the petitioner on bail till the disposal of the appeal.

For Petitioner : Mr.S.N.Subramani

For Respondent : Mr.K.Madhan
Government Advocate (Crl. Side)

O R D E R

This case is taken up through video conferencing.

2. This criminal miscellaneous petition has been preferred seeking to suspend the sentence imposed on the petitioner by judgment and order dated 13.12.2019 passed in S.C.No.48 of 2017 on the file of the I (sic III) Additional District and Sessions Court, Salem and to enlarge the petitioner on bail till the disposal of the appeal.

3. The petitioner, who was an accused in S.C.No.48 of 2017 before the III Additional District and Sessions Court, Salem, was convicted of the offence under Section 304(II) IPC and sentenced to

undergo ten years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default to undergo six months rigorous imprisonment.

4. Challenging the above conviction and sentence, the petitioner has filed CrI.A.No.188 of 2020 along with the instant miscellaneous petition seeking suspension of sentence and bail.

5. Heard Mr.S.N.Subramani, learned counsel for the petitioner and Mr.K.Madhan, learned Government Advocate (CrI.Side) for the respondent/State.

6. It is the case of the prosecution that the petitioner and the deceased Veerapandian were friends and they used to frequently have liquor together; while so, on 05.07.2016, around 12.00 noon, when they were enjoying drinks, the petitioner is said to have demanded a sum of Rs.500/- from Veerapandian; when Veerapandian refused, the petitioner is said to have berated him in foul language; this annoyed Veerapandian and so, he hit the petitioner on his neck and in retaliation, the petitioner threw a stone on the head of Veerapandian, which has proved fatal.

7. On these allegations, the petitioner faced prosecution in S.C.No.48 of 2017 for the offences punishable under Sections 294(b) and 304(II) IPC and was eventually acquitted of the charge under Section 294(b) IPC, but, convicted of the offence under Section 304 (II) IPC and sentenced as stated supra.

8. The petitioner has raised substantial grounds in the appeal which require detailed appraisal. Moreover, the petitioner has been in incarceration from 21.01.2020. Further, the appeal is not likely to be taken up in the near future. In such view of the matter, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail.

9. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only), with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the III Additional District and Sessions Court, Salem;
- (ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the III Additional District and Sessions Judge, Salem may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity; and

(iii) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

-sd/-

18/08/2020

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 III ADDL. DISTRICT AND
SESSIONS JUDGE, SALEM

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
VAAZHAPADI POLICE STATION,
SALEM DISTRICT

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

Order

in

CRL MP.3330/2020

in

Crl.A.No.188 of 2020

Date :18/08/2020

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 18/08/2020