

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.05.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.MP.No.3905 of 2020 in Crl.A.No.162 of 2020

Chinnasamy

... Petitioner

....Vs....

The State rep.by
The Deputy Superintendent of Police
Udumalpet.

... Respondent

Prayer:- Petition filed under Sections 374 and 389 of Cr.P.C., to grant interim bail to the petitioner herein, pending disposal of the Criminal appeal No.162 of 2018.

For Petitioner : Mr.Ar.L.Sundaresan, Sr.Counsel
assisted by
Mrs.Ar.L.Gandhimathi
For Respondent : Mr.C.Emalias, AAG assisted by
R.Prathap Kumar, APP

ORDER

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

The petitioner is the appellant in Crl.A.No.162 of 2018 and the petitioner/appellant was convicted in Spl.CC.19 of 2016 on the file of the Court of Principal District and Sessions Judge, Tiruppur vide judgment dated 12.12.2017 in the above said case and he was sentenced as follows:-

<i>Accused</i>	<i>Charges under Sections</i>	<i>Sentence</i>
A1	120-B IPC	Sentenced to Death and Fine of Rs.1,00,000/- in default to undergo 1 year Simple Imprisonment.
	302 r/w. 120-B IPC r/w 109 IPC	Sentenced to Death and Fine of Rs.1,00,000/- in default to undergo 1 year Simple Imprisonment.
	307 r/w.120-B IPC r/w. 109 IPC	10 years Rigorous Imprisonment and Fine of Rs.50,000/- in default to undergo 6 months Simple Imprisonment.
	3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015	3years Rigorous Imprisonment with a Fine of Rs.50,000/- in default to undergo 6 months Rigorous Imprisonment.

and the Trial Court, in lieu of the award of the capital sentence, directed the other sentences to run concurrently.

2.Out of the total fine amount of Rs.3,00,000/-, Rs.1,00,000/- was appropriated to the State and the balance to be apportioned equally between PW1-daughter of the petitioner/A1/appellant and the father of the deceased Shankar, viz., Veluchamy, Komaralingam, as compensation under Section 357[2] of Cr.P.C. The Trial Court, apart from imposing capital sentence upon the petitioner/A1/appellant, also convicted A4, A5, A6, A7, A8 and imposed them with capital sentence and A9 and A11 were also convicted and sentenced with a lesser sentence.

3.In the light of the imposition of capital sentence by the Trial Court on A1, A4 to A8, the Trial Court made a Reference and it has been taken on file in RT.No.3 of 2017 and the accused have also preferred individual Criminal Appeals. The Referred Trial as well as the Criminal Appeals were heard by a Division Bench of this Court [MSNJ and MNKJ] for a considerable period of time and through Video Conferencing on some occasions and orders were reserved on 18.03.2020, i.e., just few days prior to the lock down announced by the Central and State Governments on account of outbreak of pandemic COVID-19 virus.

4.The present petition has been filed by the petitioner/A1/appellant praying for interim bail on the ground that his mother Tmt.Amsaveni died on account of natural cause on 01.05.2020 and the petitioner/A1/appellant happen to be her only son, on account of imposition of capital sentence, he could not come out and his son has performed the final ceremony.

5.Mr.Ar.L.Sundaresan, learned Senior counsel assisted by Mrs.Ar.L.Gandhimathi, learned counsel appearing for the petitioner/A1/appellant would submit that the final ceremony is to be performed on 11.05.2020 and 12.05.2020 and prays for interim bail to the petitioner/A1/appellant. The learned Senior counsel, on instructions, would add that the cost of the escort will be borne out by the family members of the petitioner/A1/appellant and prays for appropriate orders.

6.*Per contra*, Mr.C.Emalias, learned Additional Advocate General assisted by Mr.R.Prathap Kumar, learned Additional Public Prosecutor appearing for the respondent/State would strongly oppose to this petition by submitting that the petitioner/A1/appellant has been imposed with capital

sentence and it would be dangerous for the petitioner/A1/appellant if he is released on interim bail and in the event of this Court showing its consideration on the plea made by the petitioner/A1/appellant, this Court may pass appropriate orders with sufficient protection to the petitioner/A1/appellant.

7.This Court has considered the arguments advanced on either side and also perused the materials placed before it.

8.No doubt, the petitioner/A1/appellant has been imposed with the capital sentence by the Trial Court by arriving at the finding that he conspired with the other accused to do away with the life of Shankar and through hirelings, also tried to do away with the life of his daughter-PW1. It has not been disputed by the petitioner/A1/appellant that he is the only son of the deceased Amsaveni and under normal circumstances, he should have performed the final ceremony ; but for his confinement on account of the imposition of the capital sentence and therefore, his son has performed the final ceremony. As per the customs prevail in the Hindu religion and it is the

belief that the soul of the deceased may reach the Heaven and becomes peaceful if the final ceremonies are performed by the son.

9.This Court, taking into consideration the rival submissions and the facts and circumstances, is inclined to grant **PAROLE / LEAVE** to the petitioner/A1/appellant to perform the final ceremonies of his deceased mother on 11.05.2020 ; 12.05.2020 and 13.05.2020, subject to the following conditions:-

- (1) The petitioner/A1/appellant shall execute a **personal bond** for a sum of Rs.25,000/- [Rupees Twenty Five Thousand only] to the satisfaction of the Superintendent, Central Prison, Coimbatore.
- (2) The petitioner/A1/appellant, on executing the bond to the satisfaction of the Superintendent of the Central Prison, Coimbatore, shall be released on parole at **11.00 a.m. on 11.05.2020 till 3.00 p.m. on 13.05.2020.**
- (3) The respondent Police is at liberty to provide vehicle with sufficient escort to take the petitioner/A1/appellant from the Central Prison, Coimbatore to the place of resident at Palani Town and the cost of the

escort shall be borne by the family members of the petitioner/A1/appellant.

(4) The petitioner/A1/appellant shall be confined at **Palani Town Police Station between 8.00 p.m. and 7.00 a.m. on 11.05.2020 and 12.05.2020.**

(5) The petitioner/A1/appellant as well as the family members of the petitioner/A1/appellant shall extend maximum cooperation to the escort as well as to the Palani Town Police Station during the period of parole for three days.

(6) The petitioner/A1/appellant, on expiry of the period of parole at 3.00 p.m. on 13.05.2020, shall be taken back to the Central Prison, Coimbatore and be lodged.

10. The petition stands disposed of accordingly.

11. Post the matter on **15.05.2020 for reporting compliance.**

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[M.S.N.,J]

[M.N.K., J]

05.05.2020

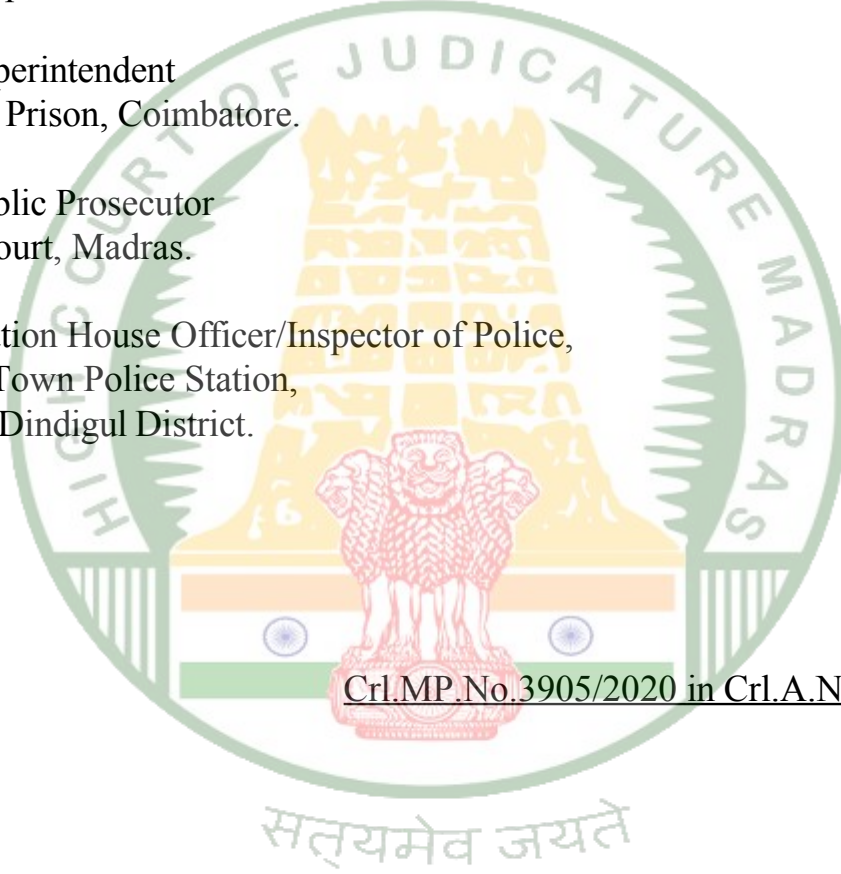
AP

Internet : Yes

M.SATHYANARAYANAN, J.,
AND
M.NIRMAL KUMAR, J.,
AP

To

- 1.The Deputy Superintendent of Police
Udumalpet.
- 2.The Superintendent
Central Prison, Coimbatore.
- 3.The Public Prosecutor
High Court, Madras.
- 4.The Station House Officer/Inspector of Police,
Palani Town Police Station,
Palani, Dindigul District.



Crl.MP.No.3905/2020 in Crl.A.No.162/2018

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