

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2020

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.M.P. No.4147 of 2020

in Crl.A. No.245 of 2020

Jothimani

Petitioner

vs.

State represented by
the Inspector of Police
Kurinjipadi Police Station
Cuddalore District
(Cr. No.344 of 2017)

Respondent

Criminal Miscellaneous Petition filed under Sections 389(1) and 439 Cr.P.C. seeking to suspend the sentence imposed vide judgment and order dated 31.01.2020 in S.C. No.228 of 2018 on the file of the I Additional District and Sessions Court, Cuddalore and enlarge the petitioner on bail, pending disposal of the appeal.

For petitioner

Mr. K. Gandhi Kumar

For respondent

Mr. K. Madhan

Government Advocate (Crl.Side)

ORDER

This is a petition seeking suspension of sentence and bail.

2 Heard Mr. K. Gandhi Kumar, learned counsel for the petitioner and Mr. K. Madhan, learned Government Advocate (Crl. Side) appearing for the respondent police.

3 It is the case of the prosecution that the petitioner and the deceased Ramesh were neighbours; sometime in 2017, when there was heavy rains in the village, the petitioner had placed sand bags to prevent the rain water draining into his street, on account of which, rain water started draining into the house of the deceased Ramesh; Ramesh objected to this and on the intervention of villagers, the petitioner removed the obstructions placed by him; while this being so, a quarrel arose between the deceased Ramesh and one Saritha on 19.11.2017 around 5.00 p.m.; while they were quarreling, the petitioner intervened and joined issues with Saritha.

4 It is alleged that the quarrel escalated and in anger, the petitioner pushed Ramesh down and dropped a stone on his chest, which proved fatal. On these allegations, a case in Cr. No.344 of 2017 under Section 302 IPC was registered and the petitioner faced prosecution in S.C. No.228 of 2018 before the I Additional District and Sessions Court, Cuddalore, in which, he was acquitted of the offence under Section 302 IPC, but, convicted of the offence under Section 304 (II) IPC and was sentenced to undergo ten years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to undergo simple imprisonment for six months. Challenging the said conviction and sentence, the petitioner has preferred Crl.A. 245 of 2020 along with the instant miscellaneous petition seeking suspension of sentence and bail.

5 A reading of the judgment of the trial Court prima facie shows that all the three, viz., the petitioner, the deceased Ramesh and Saritha, were quarreling on a silly issue and in a fret of anger, the petitioner pushed Ramesh down on the ground and threw a stone at him, which hit his chest and caused his death.

6 The petitioner has raised substantial grounds in the appeal which require detailed appraisal. Further, the appeal is not likely to be taken up in the near future. Moreover, the petitioner has been in incarceration from 31.01.2020. 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.

7 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 I Additional District and Sessions Judge, Cuddalore;
- (ii) The sureties shall affix their photographs and left thumb impression in the surety bond and the I Additional District and Sessions Judge, Cuddalore, 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/-

12/08/2020

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 JUDGE, CUDDALORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
KURINJIPADI POLICE STATION,
CUDDALORE DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

C.C. to M/S.K.GANDHI KUMAR Advocate on payment of necessary charges

Order
in
Crl.M.P. No.4147 of 2020

in Crl.A. No.245 of 2020

Date :12/08/2020

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RVR 18/08/2020

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