

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.M.P.No.16352 of 2019

in

Crl.A.No.769 of 2019

Anbu @ Anbalagan

... Petitioner/Accused

vs.

State represented by
The Inspector of Police,
Singarapettai Police Station
Krishnagiri District.

.. 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 26.09.2019 passed in S.C.No.16 of 2018 on the file of the Additional Sessions Court, Krishnagiri and to enlarge the petitioner on bail till the disposal of the appeal.

For Petitioner : Mr.C.R.Malarvannan

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 26.09.2019 passed in S.C.No.16 of 2018 on the file of the Additional Sessions Court, Krishnagiri and to enlarge the petitioner on bail till the disposal of the appeal.

3. The petitioner, who was an accused in S.C.No.16 of 2018 before the Additional Sessions Court, Krishnagiri, 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.50,000/-, in default to undergo six months simple imprisonment and the entire fine amount was awarded to the wife of the deceased under Section 357(1) Cr.P.C. for her sufferings and mental agony as compensation.

4. Challenging the above conviction and sentence, the petitioner has filed Crl.A.No.769 of 2019 along with the instant miscellaneous petition seeking suspension of sentence and bail.

5. Heard Mr.C.R.Malarvannan, learned counsel for the petitioner and Mr.K.Madhan, learned Government Advocate (Crl.Side) for the respondent/State.

6. It is the case of the prosecution that 16.01.2014, the petitioner drove his vehicle rashly and negligently through the street, where, Sudhakar (PW1) (hereinafter will be referred to as the deceased) was residing; the deceased and other residents questioned the petitioner; the petitioner took exception to that and verbally retaliated at his interrogators; that night, the deceased accosted the petitioner and questioned him about the latter's uncivil behaviour. This is said to have infuriated the petitioner, who allegedly brought a billhook from his house and fatally assaulted the deceased.

7. On these allegations, the petitioner faced prosecution in S.C.No.16 of 2018 for the offence of murder punishable under Section 302 IPC and was eventually acquitted of the said charge, but, convicted of the offence under Section 304(II) IPC and sentenced as supra.

8. It appears that, in the FIR that was registered in this case, Section 149 IPC was included along with 302 IPC as the complaint disclose that the petitioner had come with a huge group and had assaulted the deceased. However, the investigation conducted by the police subsequently showed that the attack was solely by the accused and there was no group with him.

9. 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 26.09.2019.

10. Bearing in mind the aforesaid facts, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:

- (i) The petitioner shall pay the fine of Rs.50,000/- and on such payment, the trial Court is directed to disburse the same to the wife of the deceased as compensation as directed by the trial Court;
- (ii) Thereafter, 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 Judicial Magistrate Court, Uthangarai;

(iii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Judicial Magistrate Court, Uthangarai, may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity; and

(iv) 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/-

17/08/2020

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 ADDITIONAL SESSIONS JUDGE, KRISHNAGIRI

2 THE JUDICIAL MAGISTRATE, UTHANGARAI

3 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
SINGARAPETTAI POLICE STATION,
KRISHNAGIRI DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

C.C. to M/S. C.R.MALARVANNAN Advocate on payment of necessary charges

Order
in

CrI.M.P.No.16352 of 2019

in

CrI.A.No.769 of 2019

Date :17/08/2020

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

RVR 07/09/2020

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