

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.03.2021

PRONOUNCED ON : 09.04.2021

CORAM

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

AND

THE HON'BLE MR. JUSTICE V.SIVAGNANAM

Crl.M.P.Nos.877, 945, 1258 and 1529 of 2021

in Crl.A.Nos.38, 43, 54 and 62 of 2021

Madhesh

..Petitioner in
Crl.M.P.No.877 of 2021

Madhesh

..Petitioner in
Crl.M.P.No.945 of 2021

Kolavi Kannan @ Nagaraj

..Petitioner in
Crl.M.P.No.1258 of 2021

Kolavi Kannan @ Nagaraj

..Petitioner in
Crl.M.P.No.1529 of 2021

Vs.

State represented by
The Inspector of Police,
Paramathy Police Station
Namakkal District.
(Crime No.119 of 2016)

..Respondent in
Crl.M.P.Nos.877 and 1529 of 2021

State represented by
The Inspector of Police,
Paramathy Police Station
Namakkal District.
(Crime No.123 of 2016)

..Respondent in
Crl.M.P.Nos.945 and 1258 of 2021

Criminal Miscellaneous Petitions filed under Section 389(1) Cr.P.C., to suspend the sentence imposed on 30.01.2020 in S.C.Nos.76 and 77 of 2019 & the sentence imposed on 21.08.2019 in S.C.Nos.122 and 123 of 2016 by the Principal Sessions Judge, Namakkal and enlarge the petitioners on bail.

In all the Crl.M.P's.:

For Petitioners : Mr.R.Sankarasubbu

For Respondent : Mr.K.Prabakar
Additional Public Prosecutor

C O M M O N O R D E R

These criminal miscellaneous petitions have been preferred to suspend the sentences imposed on 30.01.2020 in S.C.Nos.76 and 77 of 2019 and the sentences imposed on 21.08.2019 in S.C.Nos.122 and 123 of 2016 by the Principal Sessions Judge, Namakkal and enlarge the petitioners on bail.

2.Admittedly, both the petitioners are charge sheeted in two crime numbers, viz., Cr.Nos.119 of 2016 and 123 of 2016 and the charge sheets eventually culminated into S.C. Nos.122 and 123 of 2016 on the file of the Principal Sessions Court, Namakkal. However, since one of the petitioners, viz., Madhesh, went in abscondance and non bailable warrants were issued against him, the cases against him before the trial Court were split up as S.C. Nos.76 and 77 of 2019. Since the petitioners before us were involved in both the incidents, viz., robberies in Karur-Namakkal Highway, these four cases are considered and decided by this common order.

3.(i)The petitioner in Crl.M.P.No.877 of 2021, who is the sole accused in S.C.No.77 of 2019 before the trial Court, was convicted and sentenced as follows on 30.01.2020:

Provision under which convicted	Sentence
Section 120-B IPC	Imprisonment for life and fine of Rs.3,000/-, in default four years simple imprisonment.
Section 364-A IPC	Rigorous Imprisonment for life and fine of Rs.3,000/-, in default four years simple imprisonment.
Section 394 IPC	Rigorous Imprisonment for five years and fine of Rs.3,000/-, in default 15 months simple imprisonment.

The aforesaid sentences were ordered to run concurrently.

(ii)The petitioner in Crl.M.P.No.945 of 2021, who is the sole accused in S.C.No.76 of 2019 before the trial Court, was convicted and sentenced as follows on 30.01.2020:

Provision under which convicted	Sentence
Section 120-B IPC	Imprisonment for life and fine of Rs.3,000/-, in default four years simple imprisonment.
Section 364-A IPC	Imprisonment for life and fine of Rs.3,000/-, in default four years simple imprisonment.
Section 397 IPC	Rigorous Imprisonment for seven years and fine of Rs.3,000/-, in default 21 months simple imprisonment.
Section 395 IPC	Rigorous Imprisonment for five years and fine of Rs.3,000/-, in default 15 months simple imprisonment.

The aforesaid sentences were ordered to run concurrently.

(iii)The petitioner in Crl.M.P.No.1258 of 2021, who is A1 in S.C.No.122 of 2016 before the trial Court, was convicted and sentenced as follows on 21.08.2019

Provision under which convicted	Sentence
Section 364-A IPC	Imprisonment for life and fine of Rs.3,000/-, in default four years simple imprisonment.
Section 395 IPC	Rigorous Imprisonment for five years and fine of Rs.3,000/-, in default 15 months simple imprisonment.

The aforesaid sentences were ordered to run concurrently.

(iv)The petitioner in Crl.M.P.No.1529 of 2021, who is A1 in S.C.No.123 of 2016 before the trial Court, was convicted and sentenced as follows on 21.08.2019

Provision under which convicted	Sentence
Section 364(A) IPC	Imprisonment for life and fine of Rs.2,000/-, in default four years simple imprisonment.
Section 394 IPC	Rigorous Imprisonment for five years and fine of Rs.2,000/-, in default 15 months simple imprisonment.

The aforesaid sentences were ordered to run concurrently.

4.Challenging the above conviction and sentences, the petitioners have filed the Appeals in Crl.A.Nos.38, 43, 54 and 62 of 2021 along with the instant miscellaneous petitions seeking suspension of sentence and bail.

5.Heard Mr.R.Sankarasubbu, learned counsel for the petitioners and Mr.K.Prabakar, learned Additional Public Prosecutor appearing for the respondent/State.

6. The learned counsel for the petitioners would submit that there is no evidence to attract the offences under the aforementioned provisions to connect the accused in these crimes; recovery is not supported by independent witnesses; further, the petitioners are having an arguable case and they have been in incarceration from 30.01.2020 and 21.08.2019 respectively; the prosecution has not proved the case beyond all reasonable doubt and no prima facie case has been made out as against the petitioners; therefore, the sentence slapped on the petitioners may be suspended and the petitioners released on bail.

7. The learned Additional Public Prosecutor appearing for the respondent opposed to suspend the sentence, on the ground that there is a prima facie case against the petitioners and contended that the prosecution has proved the charge against the petitioners; further, recovery and seizure are proved by witnesses and the charges as against the petitioners are well established by the prosecution.

8. We have considered the submissions of the learned counsel for the parties and perused the materials on record.

9. On a perusal of records, it is seen that the petitioners, along with the other accused, committed decoity/robbery, in the Namakkal - Karur Highway, from persons who came in lorries on 03.05.2016 and 07.05.2016. All the accused persons assaulted the witnesses. The petitioners are the persons, who took amount from the persons travelling in the lorries. On the side of the prosecution, witnesses were examined and documents and material objects were marked. Prima facie case has been made out as against the petitioners and the offences are grave in nature. According to the prosecution, the accused persons were involved in the same kind of Highway robbery in an earlier occasion also. Therefore, we find no reason to suspend the sentence imposed on the petitioners, pending Criminal Appeals.

Accordingly, these Criminal Miscellaneous Petitions are dismissed.

-sd/-
09/04/2021

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 JUDGE,
NAMAKKAL.

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
PARAMATHY POLICE STATION,
NAMAKKAL DISTRICT.

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

Order

in
Crl.M.P.Nos.877, 945, 1258 and 1529 of 2021
in Crl.A.Nos.38, 43, 54 and 62 of 2021

Date :09/04/2021

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MK:15/04/2021