

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Second day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

and

The Hon`ble Mr Justice V. SIVAGNANAM

CRIMINAL MISCELLANEOUS PETITION No.2489 of 2021

IN CRL.A.No.238 of 2019

MOHAMED SAMEER KHAN

[PETITIONER/APPELLANT/ACCUSED]

Vs

THE STATE REP.BY [RESPONDENT/COMPLAINANT]
THE INSPECTOR OF POLICE,
C-4, RATHINAPURI POLICE STATION,
COIMBATORE.
CR.NO.1119/2016.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence for life under section 302 I.P.C., ten years of Rigorous Imprisonment each under section 449,376,392 of IPC by vide Judgments dated 17.12.2017 him passed by the learned Second Additional Sessions Judge, Special Court for Bomb Blast case, Coimbatore in S.C.No.148/2017 wide judgment dated 17.11.2017 and enlarging him on bail pending disposal of the Crl.A.No.238/2019.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.A.ABDUL LATHIF, Advocate for the petitioner, and of MR.K.PRABAKAR, Additional Public Prosecutor, on behalf of the Respondent, the court made the following order:-

(Order of the Court was made by V.SIVAGNANAM, J.)

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by judgment and order dated 17.11.2017 passed in S.C.No.148 of 2017 on the file of the II Additional Sessions Court, (Special Court for Bomb Blast Cases), Coimbatore and to enlarge the petitioner on bail pending disposal of the appeal.

2. The petitioner, who was an accused in S.C.No.148 of 2017 before the II Additional Sessions Court, (Special Court for Bomb Blast Cases), Coimbatore, was convicted and sentenced as follows on 17.11.2017:

S.No.	Provision under which convicted	Sentence
1	Section 449 IPC	Ten years rigorous imprisonment and fine of Rs.1,000/-, in default to undergo three months simple imprisonment, each.
2	Section 376 IPC	
3	Section 392IPC	
4	Section 302 IPC	Life imprisonment and fine of Rs.1,000/-, in default to undergo three months simple imprisonment.

The aforesaid sentences were ordered to run concurrently.

3. Challenging the above conviction and sentences, the petitioner has preferred Crl.A.No.238 of 2019 along with the instant criminal miscellaneous petition seeking suspension of sentence and bail.

4. Heard Mr.A.Abdul Lathif, learned counsel for the petitioner and Mr.K.Prabakar, learned Additional Public Prosecutor appearing for the respondent/State.

5. It is the case of the prosecution that on 19.12.2016 at 2.30 a.m., the petitioner intentionally entered into the house of the deceased Palaniammal, raped, robbed her of the two gold bangles and murdered her.

6. The learned counsel for the petitioner submitted that there is no evidence to support the prosecution case. He further submitted that the petitioner has been in incarceration since 17.11.2017 and pleaded to grant suspension of sentence and bail to the petitioner.

7. The learned Additional Public Prosecutor strongly opposed for the grant of suspension of sentence and bail to the petitioner by stating that there are sufficient and *prima facie* evidence available against the petitioner.

8. We have considered the submissions made by the learned counsel on both sides and perused the records.

9. It is a case of rape, robbery and murder. The prosecution, based on the statements of the petitioner, recovered the gold bangles (M.O.1) vide seizure mahazar (Ex-P6) and the materials objects were identified by the witnesses.

10. In such view of the matter, we are not inclined to grant suspension of sentence and bail to the petitioner. Hence, this criminal miscellaneous petition is dismissed. The Registry is

directed to call for the records, prepare the typed set of papers and post the main appeal in the last week of March 2021.

-sd/-
02/03/2021

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 II ADDITIONAL SESSIONS JUDGE,
(SPECIAL COURT FOR BOMB BLAST CASES),
COIMBATORE.

2 THE INSPECTOR OF POLICE,
C-4, RATHINAPURI POLICE STATION,
COIMBATORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SECTION OFFICER,
CRIMINAL SECTION,
HIGH COURT, MADRAS.

5 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

C.C. to M/S.A.ABDUL LATHIF Advocate on payment of necessary charges

सत्यमेव जयते
Order

in
CRL MP.2489/2021
in
CRL A.238/2019

Date :02/03/2021

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

TA-08/03/2021