

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2021

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.M.P.No.2464 of 2021

in

Crl.A.No.101 of 2021

Sathivel

.. Petitioner/sole accused

Vs.

State through its
Inspector of Police,
Thandamuthur Police Station,
Coimbatore.
(Crime No.138 of 2017)

.. Respondent/Respondent

Criminal Miscellaneous Petition filed under Section 389 (1) Cr.P.C. Read with Section 439 Cr.P.C., to suspend the sentence imposed upon the petitioner by judgment and order dated 06.07.2020 passed in S.C.No.110 of 2018 on the file of the learned III Additional District and Sessions Judge, Coimbatore and to enlarge the petitioner on bail pending disposal of the appeal.

For Petitioner : Mr.A.Abdul Lathif

For Respondent : Mr.R.Muniyapparaj
Government Advocate (Crl.Side)

सत्यमेव जयते
O R D E R

(Order of the Court was made by R.PONGIAPPAN, J.)

This criminal miscellaneous petition has been preferred by the accused seeking to suspend the sentence imposed upon him, by judgment and order dated 06.07.2020 passed in S.C.No.110 of 2018 on the file of the learned III Additional District and Sessions Judge, Coimbatore and to enlarge him on bail pending disposal of the appeal.

2. The petitioner, who is the sole accused in S.C.No.110 of 2018 on the file of the learned III Additional District and Sessions Judge, Coimbatore, was convicted of the offence under Section 302 IPC and sentenced to undergo Life imprisonment and also to pay a fine of Rs.2,000/-, in default, to undergo six months simple imprisonment.

3. Challenging the above conviction and sentence, the petitioner/accused has filed CrI.A.No.101 of 2021 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. Heard Mr.A.Abdul Lathif, learned counsel for the petitioner and Mr.R.Muniyapparaj, learned Government Advocate (CrI. Side) appearing for the respondent/State.

5.It is the case of the prosecution that the petitioner/accused viz., Sakthivel and the deceased Giriraj were friends. They used to go together for painting and construction works. On 15.11.2017, they had consumed liquor along with one Manimaran and afterwards, they developed verbal arguments. Since the deceased uttered abusive statements against the mother and sister of the petitioner/accused, the petitioner/accused took out an iron rod and attacked the deceased on his head and other parts of the body repeatedly and due to the attack made by the petitioner/accused, the deceased sustained fatal injuries and died. Thus, the petitioner/accused committed the offence punishable under Section 302 IPC.

6. The learned counsel for the petitioner/accused would submit that the evidences given by the eyewitnesses are having lot of contradictions. The injuries found in the dead body are entirely different from the version stated by the eyewitnesses. According to him, the petitioner/accused is having substantial points for arguing the appeal. On that score, he prayed to allow this petition seeking suspension of sentence to the petitioner/accused.

7. Per contra, the learned Government Advocate (CrI. Side) appearing for the respondent/State would contend that the contradictions now indicated by the petitioner/accused are not material in nature. According to him, before the trial Court, the prosecution has proved their case beyond reasonable doubt and in otherwise, he seriously opposed this petition.

8. Now, on considering the either side submissions, it seems that though the alleged eyewitnesses examined on the side of the prosecution supported the case of the prosecution in the chief examination, the evidence given by them in the cross examination needs a detailed appraisal as to whether the evidence recorded during the time of chief examination, is sufficient to accept the case of the prosecution.

9. Moreover, the petitioner/accused has been in incarceration from 06.07.2020. Further, the appeal is not likely to be taken up in the near future. In such view of the matter, this Court is of the view that the petitioner/accused is entitled to the relief of suspension of sentence and bail.

10. Accordingly, sentence of imprisonment alone is suspended and bail is granted to the petitioner on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned III Additional District and Sessions Judge, Coimbatore
- (ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity; and
- (iii) The petitioner shall appear before the respondent/police everyday at 10.30 a.m. for a period of four weeks and thereafter, 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/-

23/06/2021

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 III ADDITIONAL DISTRICT AND
SESSIONS JUDGE, COIMBATORE

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

3 THE INSPECTOR OF POLICE,
THANDAMUTHUR, COIMBATORE.

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4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

Order

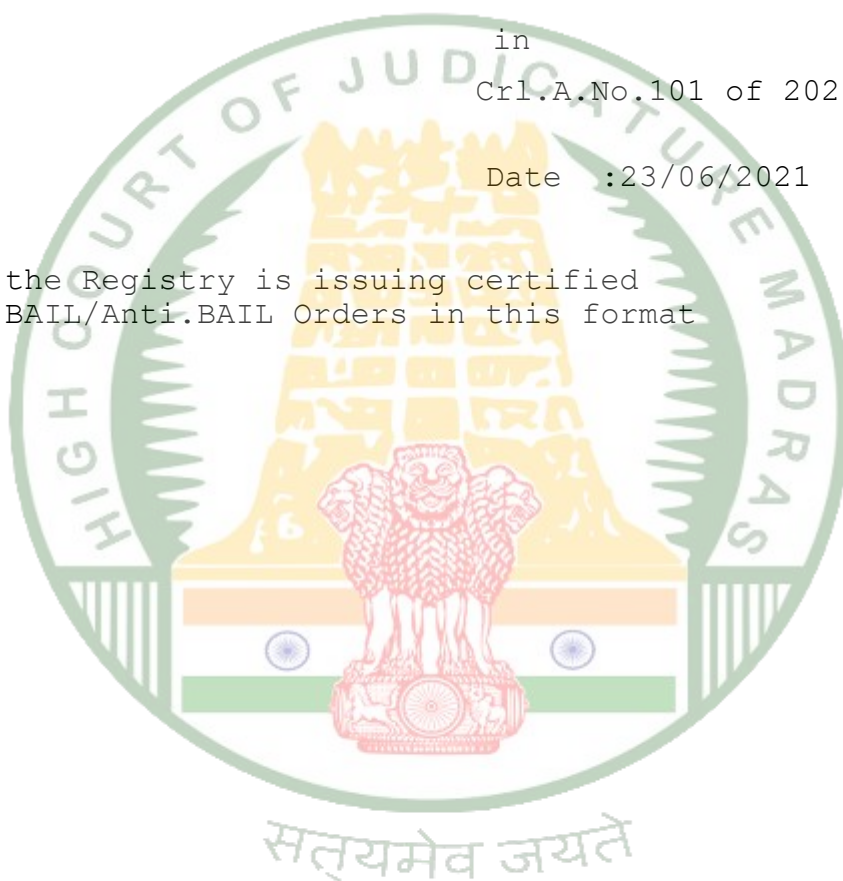
in
CRL MP.2464/2021

in
Crl.A.No.101 of 2021

Date :23/06/2021

From 7.2.2001 the Registry is issuing certified
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RVR 25/06/2021



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