

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2021

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.M.P.No.2861 of 2021

in Crl.A.No.112 of 2021

Kiruthika

.. Petitioner/A2

Vs.

State through its
The Inspector of Police,
Perumannalur Police Station,
Tiruppur District.
(Crime No.281 of 2017)

.. Respondent/Respondent

Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. to suspend the sentence imposed on the petitioner made in S.C.No. 132 of 2017 dated 02.03.2019 on the file of II Additional District and Sessions Judge, Tiruppur and release the petitioner on bail pending disposal of the appeal.

For Petitioner : Mrs.S.Sumathy

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

ORDER

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

This criminal miscellaneous petition has been preferred seeking to suspend the sentence imposed on the petitioner, by judgment and order dated 02.03.2019 in S.C.No. 132 of 2017 on the file of the learned II Additional District and Sessions Judge, Tiruppur and to enlarge the petitioner on bail till the disposal of the appeal.

2. The petitioner, who was arrayed as the 2nd accused in S.C.No. 132 of 2017 on the file of the learned II Additional District and Sessions Judge, Tiruppur, was convicted of offence under Section 302 r/w 109 IPC and sentenced to undergo Life imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo six months rigorous imprisonment.

3. Challenging the above conviction and sentence, the petitioner has filed CrI.A.No.112 of 2021 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. Heard, Mrs.S.Sumathy, learned counsel for the petitioner/A2 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/A2 and the other accused in this case were in love with each other during school days and thereafter, the petitioner/A2 was married to one Kesavan viz., the deceased. There were frequent quarrels between the petitioner/A2 and the deceased. Since the illicit relationship having by the petitioner/A2 was objected to by the deceased, both the accused decided to do away the deceased. On the date of occurrence, the second accused closed the door of the house without locking it and the first accused went inside the house and murdered the deceased by dropping the stone on his head, thereby causing his death.

6. According to the prosecution, the occurrence was witnessed by the minor child of the deceased viz., P.W.3. P.Ws.8 and 10 said to have seen the accused coming out of the house of the deceased. Apart from this evidence, there is no evidence on the part of the prosecution to link the accused with the crime.

7. There are arguable points involved in the appeal and the petitioner is undergoing incarceration from 02.03.2019. 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. In such view of the matter, this Court is of the view that the petitioner/A2 is entitled to the relief of suspension of sentence and bail.

8. Accordingly, sentence of imprisonment alone is suspended and bail is granted to the petitioner/A2 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 II Additional District and Sessions Judge, Tiruppur.

(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 she is not able to appear before the trial Court on any day, she 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 her absence, as directed by the trial Court.

-sd/-
07/07/2021

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 DISTRICT AND SESSIONS JUDGE,
TIRUPPUR.

2 THE INSPECTOR OF POLICE,
PERUMANALLUR POLICE STATION,
TIRUPPUR DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

+1 C.C. to M/S. S.SUMATHY Advocate on payment of necessary charges
SR.NO. 7167

Order
in
CRL MP.2861/2021

in
CRL A.112/2021

Date :07/07/2021

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MN-08/07/2021