

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Second day of February 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.3577 of 2020

in CRL.A.No.613 of 2019

1 ARUN @ ARUNKUMAR
2 SEENU @ SRINIVASAN

[PETITIONERS]

Vs

THE STATE
REPRESENTED BY THE INSPECTOR OF POLICE,
J-9, THORAIPAKKAM POLICE STATION,
CHENNAI-600 097.

[RESPONDENT]

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 imposed in order dated 30.8.2019 in S.C.No.148 of 2012, on the file of the Additional and Sessions Court, Chengalpattu and enlarge the appellants on bail, pending disposal of the above Criminal Appeal No.613/2019.

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.E.RAVICHANDRAN, 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 P.N.PRAKASH,J)

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioners (A1 and A2) by judgment dated 30.08.2019 in S.C.No.148 of 2012 on the file of the Additional District and Sessions Court, Chengalpattu and to enlarge the petitioners (A1 and A2) on bail till the disposal of the appeal.

2. This is the third petition for suspension of sentence and bail and the earlier two petitions have been dismissed as withdrawn.

3. It is the case of the prosecution that on account of previous enmity, the accused including the petitioners (A1 and A2) herein took the deceased to a desolate place and stabbed him to death.

4. The learned counsel for the petitioners submitted that the entire conviction is based on circumstantial evidence and not on direct evidence. He further submitted that there are totally nine accused, where, the nine accused faced trial, but, seven accused have been acquitted and only the petitioners have been convicted. It is his further submission that the prosecution case rests on the last seen theory propounded by Valli (PW1), Mahalakshmi (PW2) and Lakshmi (PW3) and nothing more.

5. *Per contra*, the learned Additional Public Prosecutor refuted the above submissions made by the learned counsel for the petitioner.

6. On a cursory perusal of the evidence of Valli (PW1), Mahalakshmi (PW2) and Lakshmi (PW3), it is seen that they were examined-in-chief on 23.06.2014, but, were recalled and cross-examined one year later i.e., on 08.07.2015, whereas, the defence have cross-examined those witnesses, who had turned hostile.

7. The learned counsel took this Court through the postmortem certificate and submitted that undigested food was found in the stomach of the deceased and the probable timing of the death that was given in the postmortem certificate does not corroborate the prosecution version.

8. In our considered opinion, these are aspects that can be gone into only during the final disposal of the case. In this case, the accused had allegedly taken the deceased from his house on the pretext of having discussion with him and thereafter, the body of the deceased with twenty three injuries was found near the railway track.

9. Under such circumstances, this is not a fit case to grant suspension of sentence and bail to the petitioners.

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 second week of March 2021.

-sd/-

02/02/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

TO

1 THE ADDITIONAL AND SESSIONS
JUDGE, CHENGALPATTU.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE INSPECTOR OF POLICE,
J-9, THORAIPAKKAM POLICE STATION,
CHENNAI-600 097.

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

C.C. to M/S. A.E.RAVICHANDRAN Advocate on payment of necessary
charges

Order

in
CRL MP.3577/2020
in
CRL A.613/2019

Date :02/02/2021

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

TA-05/02/2021

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