

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2021

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.M.P.No.4433 of 2021

in Crl.A.No.653 of 2019

Santhosh Pandaragiri .. Petitioner/sole accused

Vs.

State through its
The Inspector of Police,
T12 Poonamallee Police Station,
Thiruvallur District.
(Crime No.385 of 2018)

.. Respondent/Respondent

Criminal Miscellaneous Petition filed under Section 374 (2) Cr.P.C., to suspend the sentence imposed upon the petitioner by judgment and order dated 07.08.2019 passed in S.C.No.117 of 2018 on the file of the learned Principal Sessions Judge, Tiruvallur, and to enlarge the petitioner on bail pending disposal of the appeal.

For Petitioner : Mr.R.Baskar

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 upon the petitioner, by judgment and order dated 07.08.2019 passed in S.C.No.117 of 2018 on the file of the learned Principal Sessions Judge, Tiruvallur, and to enlarge the petitioner on bail pending disposal of the appeal.

2. The case of the prosecution is that on 25.03.2018 at 3.00 hours when the deceased Ravindra Natekar and the petitioner/accused sought water from the witness Muniappan and also sought permission to sleep in

the Verandah, in respect of the same, a wordy quarrel arose between them. Thereafter, at about 3.30 hours, when the deceased was sleeping in packing cardboard sheet, the petitioner/accused assaulted him with packing wooden log and committed murder of the deceased. Further, he set fire to the bed sheet covering the deceased. For the said occurrence, a case has been registered against the petitioner/accused in Crime No.385 of 2018, on the file of the T12, Poonamallee Police Station, under Section 302 IPC.

3. After concluding the trial, by judgment dated 07.08.2019, the learned Principal Sessions Judge, Tiruvallur, came to the conclusion that the petitioner/accused is guilty of the offence under Section 302 IPC. Accordingly, the petitioner/accused was convicted and sentenced to undergo imprisonment for life and also to pay a fine of Rs.1,000/-, in default to undergo simple imprisonment for six months.

4. Challenging the above conviction and sentence, the petitioner/accused has filed Crl.A.No.653 of 2019 along with the instant miscellaneous petition seeking suspension of sentence and bail.

5. Heard Mr.R.Baskar, learned counsel for the petitioner and Mr.R.Muniyapparaj, learned Government Advocate (Crl.Side) appearing for the respondent/State.

6. Mr.R.Baskar, learned counsel appearing for the petitioner/accused would contend that the petitioner is in judicial custody from the date of judgment i.e. 07.08.2019 and he is having substantial points for allowing this appeal. In fact, PW4 and PW5 are the chance witnesses. Further, there is no proof to show that they were available at the scene of occurrence. The petitioner/accused will not abscond and he is a law abiding citizen. The learned counsel for the petitioner/accused would further submit that the evidence given by the prosecution witnesses are having lot of contradictions. Accordingly, he prayed to allow this petition.

7. Per contra, Mr.R.Muniyapparaj, the learned Government Advocate (Crl. Side) appearing for the respondent State would contend that before the trial Court in order to prove the case of the prosecution, three witnesses have been examined as PW1, PW4 and PW5. The evidence is very clear to show that the prosecution case is proved. According to him, if this petition is allowed, the petitioner/accused may try to prolong the disposal of the appeal.

8. Now, on considering the rival submissions made by the learned counsel on either side with the relevant records, it appears that upon believing the alleged eyewitnesses, the trial Court came to the conclusion that the petitioner/accused is guilty of the offence under Section 302 IPC. Though the petitioner is in incarceration from the date of judgment i.e. 07.08.2019, in Vijayakumar Vs. Narendra and others,

reported in 2002 (9) SCC 364, the Hon'ble Apex Court has held as follows,

"... in considering the prayer for bail in a case involving serious offences like murder punishable under Section 302 IPC, the Court should consider the relevant factors like the nature of accusation made against the accused, the manner in which the crime is alleged to have been committed, the gravity of offence, and the desirability of releasing the accused on bail after they have been convicted for committing serious offence of murder."

9. Now, applying the ratio laid down by the Hon'ble Apex Court to the case in our hand, herein it is a case that the petitioner/accused and the deceased belong to other State. They are not having any permanent residence in Tamil Nadu. Otherwise, there are no special reasons assigned by the petitioner/accused justifying suspension of sentence, in accordance with the law settled, which is laid down by our Hon'ble Apex Court in a series of decisions. The mere fact that there is a possibility of delay in disposal of the appeal by itself cannot be a ground for suspending the sentence imposed upon the petitioner/accused. Accordingly, we are of the opinion that this is not a fit case to suspend the sentence of imprisonment and grant bail to the petitioner/accused.

10. In the result, this criminal miscellaneous petition is dismissed. The Registry is directed to call for the records, prepare the typed set of papers immediately and list the main appeal for final hearing in the month of August 2021.

-sd/-
24/06/2021

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

TRUE COPY

सत्यमेव जयते

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

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TO

1 THE PRINCIPAL SESSIONS JUDGE,
THIRUVALLUR.

2 THE INSPECTOR OF POLICE,
T12 POONAMALLEE POLICE STATION,
THIRUVALLUR DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

COPY TO:

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

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

Order

in
CRL MP.4433/2021

in
CRL A.653/2019

Date :24/06/2021

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

MN-29/06/2021

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