



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2021

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MS. JUSTICE R.N.MANJULA

Crl.M.P.No.5571 of 2021

in

Crl.A.No.217 of 2021

Karikadai Karthik @ Karthik

..Petitioner/Appellant

Vs.

State represented by
The Deputy Superintendent of Police,
Mettur Sub-Division,
Mettur,
Salem District.
(Mettu P.S.Crime No.8 of 2019)

.. Respondent/Respondent

Criminal Miscellaneous Petition filed under Sections 389(1) Cr.P.C. to suspend the sentence imposed on the petitioner by judgment and order dated 17.04.2021 passed in Spl.S.C.No.19 of 2019 on the file of the learned Principal Sessions Judge, Salem, Salem District and to enlarge the petitioner on bail pending disposal of the appeal.

For Petitioner : Mr.M.R.Jothimanian

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

ORDER

(Order of the Court was made by **P.N.PRAKASH, J**)

This criminal miscellaneous petition has been preferred seeking to suspend the sentence imposed on the petitioner by judgment and order dated 17.04.2021 passed in Spl.S.C.No.19 of 2019 on the file of the learned Principal Sessions Judge, Salem, Salem District and to enlarge the petitioner on bail pending disposal of the appeal.



2. The petitioner, who was the second accused in Spl.S.C.No.19 of 2019 before the learned Principal Sessions Judge, Salem, Salem District, was convicted and sentenced as follows on 17.04.2021:

S.No.	Provision under which convicted	Sentence
1	Section 302 IPC	Life imprisonment and fine of Rs.1,000/-, in default to undergo four years rigorous imprisonment.
2	Section 3(2)(v) of SC/ST (POA) Amendment Act, 2016	Life imprisonment and fine of Rs.1,000/-, in default to undergo four years rigorous imprisonment.

The aforesaid sentences were ordered to run concurrently.

3. Challenging the above conviction and sentences, the petitioner (A2) has filed Crl.A.No.217 of 2021 along with the instant criminal miscellaneous petition seeking suspension of sentence and bail.

4. Heard Mr.M.R.Jothimanian, learned counsel for the petitioner (A2) and Mr.R.Muniyapparaj, learned Government Advocate (Crl.Side) appearing for the respondent/State.

5. In normal circumstances, we would not have entertained this petition for suspension of sentence and bail. But, it appears that the petitioner (A2) has been in custody since the time of his arrest i.e. 16.01.2019 and this Court, while dismissing the bail application of A1 and this petitioner (A2), had directed the trial Court to complete the trial in a time bound manner.

6. That apart, on facts, we find that the deceased and his relatives were consuming liquor on 15.01.2019 in connection with pongal festivity near the banks of their village stream. While so, the accused party were also consuming liquor nearby. The evidence of Prabhu [PW-2], the brother of the deceased, shows that one Thennarasu belonging to the deceased party, went to the accused party and asked A1 to get liquor for him. In this connection, a quarrel ensued, in which, Thennarasu is said to have first assaulted A1 and as a retaliation, A1 and this petitioner (A2) appear to have attacked the deceased resulting in his death.

7. On instructions, learned Government Advocate [crl.side] submits that there are no previous cases against the petitioner (A2).

8. Taking into consideration the long period of detention of the petitioner (A2) and the fact that the appeal is not likely to be taken up in the near future, this Court is of the view that the petitioner (A2) is entitled to the relief of suspension of sentence and bail.

9. Accordingly, the relief of suspension of sentence 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 trial Court;
- (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 trial Court 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.

Accordingly, this Criminal Miscellaneous Petition is disposed of.

-sd/-
16/08/2021

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 PRINCIPAL SESSIONS JUDGE
SALEM, SALEM DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE DEPUTY SUPERINTENDENT OF POLICE,
METTUR SUB-DIVISION,
METTUR,
SALEM DISTRICT.



4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

+1 C.C. to M/S.M.R.JOTHIMANIAN Advocate on payment of necessary
charges SR.NO.8568, 8851

Order

in
CRL MP.5571/2021

in
CRL A.217/2021

Date :16/08/2021

From 7.2.2001 the Registry is issuing certified
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TA-17/08/2021

TA-19/08/2021