



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	15.09.2021
Pronounced on	08/10/21

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

and

THE HON'BLE Ms. JUSTICE R.N.MANJULA

Crl.M.P.No.6628 of 2021
in
Crl.A.No.197 of 2021

Gopika Mamtha Devi

... Petitioner/Accused 1

Vs.

State rep.by
The Inspector of Police,
Krishnagiri Taluk Police Station,
Krishnagiri District.
(Crime No.778 of 2017)

... Respondent/Complainant

Prayer: Criminal Miscellaneous Petition is filed under Section 389(1) of Code of Criminal Procedure, to suspend the sentence imposed in S.C.No.30 of 2019 dated 23.02.2021 passed by the Court of Additional Sessions Judge, Krishnagiri and enlarge the petitioner on bail, pending disposal of the above Crl.A.No.197 of 2021 on the file of this Court.

For Appellant : Mr.R.Sankara Subbu

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



ORDER

R.N.MANJULA, J.

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed on the petitioner by judgment dated 23.02.2021 passed in S.C.No.30 of 2019 by the learned Additional Sessions Judge, Krishnagiri and to enlarge the petitioner on bail pending disposal of the Appeal.

2. The petitioner, who was the first accused in S.C.No.30 of 2019 before the learned Additional Sessions Judge, Krishnagiri, was convicted and sentenced on 23.02.2021 for the following:-

S.No.	Provisions under which convicted	Sentence
1.	Section 120(B) of IPC	(i) To undergo life imprisonment and to pay a fine of Rs.5,000/-. (ii) in default to undergo six months simple imprisonment.
2.	Sections 302 r/w 34 & 114 of IPC	(i) To undergo life imprisonment and to pay a fine of Rs.5000/-. (ii) in default to undergo six months simple imprisonment.

The aforesaid sentences were ordered to run concurrently.

3. Challenging the above conviction and sentences, the petitioner (A1) has filed CrI.A.No.197 of 2021 along with the instant Criminal Miscellaneous Petition seeking suspension of sentence and bail.

4. Heard, Mr.Sankara Subbu, learned counsel for the petitioner (A1) and Mr.R.Muniyapparaj, learned Government Advocate (criminal side) appearing for the respondent.

5. On facts, it is seen that the deceased Krishna was known to A1 and they loved each other. When the deceased approached the parents of A1 for getting their permission to marry A1, they refused. Subsequently, A1 got married to one Murali. This had happened 14 years ago. Even after marriage, the deceased continued his affair with A1 and got money from her. Since the deceased Krishna started to indulge in unlawful activities like robbery, A1 disliked him and discontinued her connection with him. The deceased blackmailed A1 and tortured her



to give money to him. So A1 decided to do away the deceased Krishna with the help of A2 & A3. On 06.12.2017 at about 2 pm at the house of A1, all the 3 accused conspired together and hatched a criminal conspiracy to murder the deceased Krishna. As per the plan, A2 & A3 murdered the deceased Krishna on the morning of 09.12.2017 by attacking the deceased with aruval and knife. On the abetment given by A1, A2 decapitated and killed Krishna.

6. On instructions, the learned Government Advocate submitted that there are no previous cases.

7. Mr.R.Sankarasubbu, learned counsel for the petitioner (A1) submitted that the petitioner (A1) has been impleaded in this case on the allegation of conspiracy and there is no reliable evidence as against the petitioner (A1) to convict her and that the petitioner (A1) has a fair chance to win the appeal and get acquitted. The petitioner (A1) is a woman who was said to have been fallen in love with the deceased Krishna longtime before her marriage. It is further submitted that the petitioner (A1) had two children and there is no one to take care of the children.

8. It is seen from the records that the case is based on the circumstantial evidence and there is no overtact as against the petitioner (A1). After marrying some other person, the petitioner (A1) was said to have been developing her contact with the deceased. It is stated by the prosecution that since the deceased asked her money, she wanted to do away with him and hence, engaged A2 and A3 by entering into a conspiracy with them. The deceased was killed in a gruesome manner by decapitating his head. The motive attributed against the petitioner (A1) to execute such a gruesome murder is something unbelievable. However, the correctness of appreciation of evidence can be evaluated only when the appeal is taken up for hearing. Since the appeal will not reach for trial that early, this petition for bail has to be considered favourably.

9. Taking into consideration of the family situation of the petitioner (A1), the absence of any overtact as against this petitioner (A1) and the fact that there is no likelihood to dispose the appeal early, we feel that the petitioner's prayer can be considered favourably and this Court, is of the view that the petitioner (A1) is entitled to the relief of suspension of sentence and bail.

10. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner (A1) 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 Additional Sessions Judge, Krishnagiri;



(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 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.

Accordingly, this Criminal Miscellaneous Petition is allowed.

-sd/-
08/10/2021

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 ADDITIONAL SESSIONS JUDGE,
KRISHNAGIRI.

2 THE INSPECTOR OF POLICE,
KRISHNAGIRI TALUK POLICE STATION,
KRISHNAGIRI DISTRICT.



3 THE SPECIAL PRISON FOR WOMEN,
VELLORE.

4 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

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

Order

in

CRL MP.6628/2021

in

CRL.A.No.197/2021

Date :08/10/2021

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INBA-12/10/2021