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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2021

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MRS. JUSTICE R.N.MANJULA

Crl.M.P.No.5729 of 2021

in Crl.A.No.237 of 2021

Kumar

..Petitioner/1st Accused

Vs.

State represented by
The Inspector of Police
Kondalampatty Police Station
Salem District
(Crime No.1133 of 2009)

.. Respondent/Complainant

Criminal Miscellaneous Petition filed under Sections 389(1) Cr.P.C. to suspend the sentence imposed on the petitioner by judgment and order dated 30.07.2019 passed in S.C.No.179 of 2016 on the file of the III Additional District and Sessions Court, Salem and to enlarge the petitioner on bail pending disposal of the appeal.

For Petitioner : Mr.B.Vasudevan

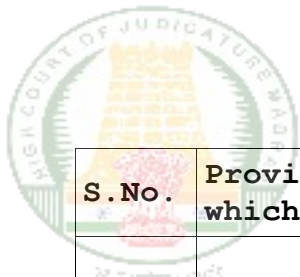
For Respondent : Mr.R.Muniyapparaj
Government Advocate (Crl.Side)

O R D E R

(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 30.07.2019 passed in S.C.No.179 of 2016 on the file of the III Additional District and Sessions Court, Salem and to enlarge the petitioner on bail pending disposal of the appeal.

2. The petitioner, who was the first accused in S.C.No.179 of 2016 before the III Additional District and Sessions Court, Salem, was convicted and sentenced as follows on 30.07.2019:



S.No.	Provision under which convicted	Sentence
1	Section 364 IPC	Life imprisonment and fine of Rs.5,000/-, in default to undergo six months rigorous imprisonment.
2	Section 302 IPC	Life imprisonment and fine of Rs.5,000/-, in default to undergo six months rigorous imprisonment.
3	Section 404 IPC	Two years rigorous imprisonment and fine of Rs.1,000/-, in default to undergo one month rigorous imprisonment.
4	Section 201 r/w 302 IPC	Five years rigorous imprisonment and fine of Rs.2,000/-, in default to undergo two months rigorous imprisonment.

The aforesaid sentences were ordered to run concurrently.

3. Challenging the above conviction and sentences, the petitioner (A1) has filed CrI.A.No.237 of 2021 along with the instant criminal miscellaneous petition seeking suspension of sentence and bail.

4. Heard Mr.B.Vasudevan, learned counsel for the petitioner (A1) 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 (A1) was having intimacy with the deceased Kala for over a period of time and when Kala insisted the petitioner to marry her, the petitioner had taken her to a deserted place and strangled her to death.

6. This case is based on circumstantial evidence. Apart from the petitioner (A1), two other persons Arumugam (A2) and Murugan (A3) were charged for disposing of the body of Kala. It is reported that this Court has granted suspension of sentence and bail to Arumugam (A2) and Murugan (A3).

7. The petitioner (A1) has raised substantial grounds in the appeal which require detailed appraisal. Moreover, the petitioner (A1) has been in incarceration from 30.07.2019. 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 (A1) is entitled to the relief of suspension of sentence and bail.



8. 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 III Additional District and Sessions Court, Salem;
- (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.

-sd/-
04/08/2021

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 III ADDITIONAL DISTRICT AND SESSIONS COURT,
SALEM.

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.



3 THE INSPECTOR OF POLICE,
KONDALAMPATTY POLICE STATION,
SALEM DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to M/S.B.VASUDEVAN Advocate on payment of necessary
charges

Order

in
CRL MP.5729/2021

in
CRL A.237/2021

Date :04/08/2021

From 7.2.2001 the Registry is issuing certified
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RW 06/08/2021