

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2021

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.M.P.No.6082 of 2021

in Crl.A.No.169 of 2020

Seenu @ Seenuvasan

... Petitioner/sole Accused

Vs.

State through its
Inspector of Police,
Dusi Police Station.
Thiruvannamalai District.
(Crime No.436 of 2008)

... Respondent/Respondent

Criminal Miscellaneous Petition filed under Section 389 (1) Cr.P.C. Read with Section 439 Cr.P.C., to suspend the sentence imposed on the petitioner by judgment and order dated 05.02.2020 passed in S.C.No.41 of 2010 on the file of the learned I Additional District and Sessions Judge, Arani, Thiruvannamalai District and to enlarge the petitioner on bail pending disposal of the appeal.

For Petitioner : Mr.R.Ganesh Kumar.

For Respondent : Mr.J.C.Durai Raj
Government Advocate (Crl.Side)

ORDER

This criminal miscellaneous petition has been preferred seeking to suspend the sentence imposed on the petitioner by judgment and order dated 05.02.2020 passed in S.C.No.41 of 2010 on the file of the learned Additional District and Sessions Judge, Arani, Thiruvannamalai District and to enlarge the petitioner on bail pending disposal of the appeal.

2. In the above referred Sessions Case, the petitioner was convicted under Section 302 IPC and sentenced to undergo imprisonment for life and also to pay a fine of Rs.10,000/-, in default to undergo Rigorous

Imprisonment for 6 months; the petitioner was further convicted under Section 324 IPC and sentenced to undergo imprisonment for 3 years and to pay a fine of Rs.1000/-, in default to undergo Rigorous Imprisonment for 3 months. The sentences are ordered to run concurrently.

3. Challenging the above conviction and sentence, the petitioner has filed CrI.A.No.169 of 2020 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. Heard Mr.R.Ganesh Kumar, learned counsel for the petitioner and Mr.J.C.Durairaj, learned Government Advocate (CrI.Side) appearing for the respondent/State.

5. It is the case of the prosecution that on 21.09.2008 at about 3.00 p.m, during the death ceremony of one Perumal, the accused tied the DMK flag in the cremation roof. At that time, in the burial ground itself, a dispute arose between the petitioner and the witness Prakash who is the son of the deceased Kuppunaicker. In the said transaction, the petitioner bite the hand of witness Prakash and returned to his house. When at the time the deceased Kuppunaicker questioned the same, the petitioner by using the hammer, which was brought from his house hit the deceased on his left side head and caused head injury to the deceased. When the witness Arun came to the rescue, the petitioner attacked the witness Arun on his forehead and caused simple injury. Resultantly, Kuppunaicker died due to the head injury, which is sustained due to the attack made by the petitioner. Hence the petitioner was liable for conviction under sections 302 IPC and Section 324 IPC.

6. It is seen that the evidence given by the eye witnesses did not disclose the motive/previous enmity having by the petitioner for the commission of offence. Further, the FIR, which has been registered for the alleged occurrence had reached the Magistrate with considerable delay. More than that, as per the evidence of PW3, the accused/petitioner was available in the police station at about 7.00am on 22.09.2008 and the same was contra to the evidence given by the Investigation officer. Further, some of the witnesses have not supported the case of the prosecution.

7. In the above manner, the petitioner has raised substantial grounds in the appeal which require detailed appraisal. Moreover, the petitioner has been in incarceration from 05.02.2020. 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 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 on the following conditions:

(a) Considering the COVID-19 pandemic and lockdown restrictions, initially, the petitioner shall execute his own bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) before the Superintendent of

the Central Prison, Vellore, in which the petitioner is confined and on such execution of the bond, the petitioner shall be released from prison;

(b) After the lockdown restrictions are lifted and normalcy is restored, the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Additional District and Sessions Judge, Arani, Thiruvannamalai District, failing which, the suspension of sentence and bail granted by this Court shall stand automatically dismissed. The bond shall be executed within a reasonable period of one month from the date the lockdown restrictions are lifted.

(c) If for any reason, the petitioner is not able to execute the bond within the specified time, the petitioner shall approach this Court and file a petition seeking extension of time for the same.

(d) While executing the bond, the sureties shall furnish proof of identity and the sureties shall affix their photographs and left thumb impression in the surety bond and the trial Court shall obtain a copy of their Aadhar card or Voter ID or Driving license or Bank pass Book to ensure their identity.

(e) After the execution of the bond before the learned Additional District and Sessions Judge, Arani, Thiruvannamalai District, the petitioner shall appear before the respondent/police 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/-

04/06/2021

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

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High Court, Madras - 600 104.

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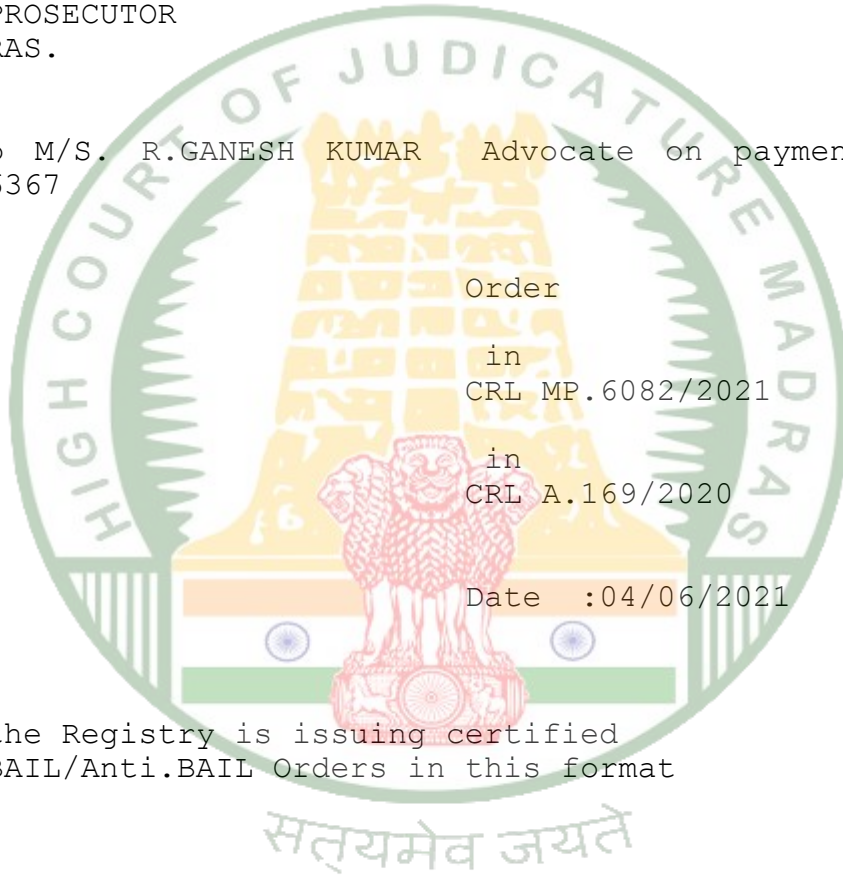
1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
ARANI, TIRUVANNAMALAI.

2 THE INSPECTOR OF POLICE,
DUSI POLICE STATION,
TIRUVANNAMALAI DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S. R.GANESH KUMAR Advocate on payment of necessary
charges SR.No. 6367



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MN-07/06/2021

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