



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Eleventh day of August Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

and

The Hon`ble Ms Justice R.N. MANJULA

CRIMINAL MISCELLANEOUS PETITION No.7541 of 2021

IN CRL.A.NO.892/2019

DASTHAGIR

[APPELLANT/ACCUSED NO.2]

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
SEVAPPETTAI POLICE STATION,
SALEM DISTRICT
CR NO. 194/2017

[RESPONDENT/COMPLAINANT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.892/2019 on the file of the High Court, the High Court will be pleased to to suspend the Sentence imposed in S.C.No.303/2017 dated 25/04/2019 by the III Additional District and Sessions Court, Salem and Enlarge the petitioner on bail while pending disposal of the above Criminal Appeal in C.A.No.892 of 2019.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.892/2019 on the file of the High Court and upon hearing the arguments of M/S.D.MARIOJOHNSON, Advocate for the petitioner and of M/S. R.MUNYAPPARAJ, Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

(Delivered by P.N.PRAKASH, J.)

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by judgment and order dated 25.04.2019 passed in S.C.No.303 of 2017 on the file of the III Additional Sessions Court, Salem and to enlarge the petitioner on bail pending disposal of the above appeal.



2. It is the case of the prosecution that on 30.05.2017, Kuppuraj (A1) and Dasthagir (A2), had brutally attacked the deceased Srinivasan and caused his death on account of previous motive. During investigation, it came to light that one another accused viz. Oomaiyan (A3) was also involved in the offence.

3. All the three accused faced trial in S.C.No.303 of 2017 before the III Additional Sessions Court, Salem, in which, Oomaiyan (A3) was acquitted, but, Kuppuraj (A1) and Dasthagir (A2) were convicted and sentenced as follows on 25.04.2019:

Accused	Provision under which convicted	Sentence
Kuppuraj (A1)	Section 294(b) IPC	Three months simple imprisonment.
	Section 302 IPC	Life imprisonment and fine of Rs.1,000/-, in default to undergo three months simple imprisonment.
	Section 506(II) IPC	Three years rigorous imprisonment.
Dasthagir (A2)	Section 302 IPC	Life imprisonment and fine of Rs.1,000/-, in default to undergo three months simple imprisonment.

The aforesaid sentences were ordered to run concurrently.

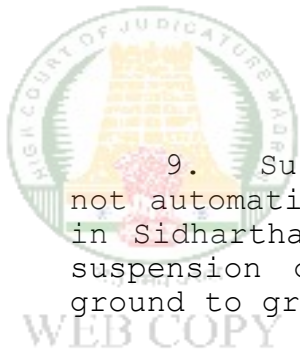
4. Challenging the above conviction and sentence, the present appeal has been filed by Dasthagir (A2), the petitioner herein, along with the instant criminal miscellaneous petition seeking suspension of sentence and bail.

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

6. The learned counsel for the petitioner submitted that this Court has granted suspension of sentence and bail to Kuppuraj (A1) in Crl.M.P.No.9912 of 2019 in Crl.A.No.383 of 2018 on 27.11.2019 and therefore, the petitioner herein would also be entitled to the same on the principle of parity.

7. Per contra, the learned Government Advocate (Crl.Side) submitted that the petitioner has involved in thirteen previous cases. He also produced the history sheet of the petitioner in support of the same.

8. We carefully considered the rival submissions.



9. Suspension of sentence and bail in a case of this nature is not automatic in the light of the law laid down by the Supreme Court in Sidhartha Vashisht Vs. State (NCT of Delhi). Merely the grant of suspension of sentence and bail to the co-accused will not be a ground to grant bail to the petitioner herein.

10. In this case, there are thirteen previous cases against the petitioner and the murder in this case has been committed in a brutal manner.

In such view of the matter, we are not inclined to grant suspension of sentence and bail to the petitioner and as a sequel, this criminal miscellaneous petition stands dismissed.

-sd/-

11/08/2021

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 SESSIONS
JUDGE, SALEM

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

3 THE INSPECTOR OF POLICE,
SEVAPPETTAI POLICE STATION, SALEM DISTRICT

4 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

C.C. to M/S.D.MARIO JOHNSON Advocate on payment of necessary charges

Order

in

CRL MP.7541/2021

IN CRL.A.No.892/2019

Date :11/08/2021

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APN 13/08/2021