

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.08.2021

PRONOUNCED ON : 02.09.2021

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MS. JUSTICE R.N.MANJULA

Cr1.M.P.No.7911 of 2021

in Cr1.A.No.258 of 2021

Tamil @ Tamilarasan

...Petitioner/Appellant

Vs.

1.State of Tamil Nadu represented by
The Deputy Superintendent of Police,
Mettur Police Station
Salem District

... Respondent/Respondent

2.C.Sardhar

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, [Special Court of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989], Salem, Salem District and to enlarge the petitioner on bail pending disposal of the appeal.

For Petitioner : Mr.M.Devaraj

For R1 : Mr.M.Babu Muthu Meeran
Additional Public Prosecutor

ORDER

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, [Special Court of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for

brevity "the SC/ST Act")], Salem, Salem District and to enlarge the petitioner on bail pending disposal of the appeal.

2. The petitioner, who was the first accused in Spl.S.C.No.19 of 2019 before the learned Principal Sessions Judge, (Special Court for SC/ST Act Cases), 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 Act	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 (A1) has filed Crl.A.No.258 of 2021 along with the instant criminal miscellaneous petition seeking suspension of sentence and bail.

4. Heard Mr.M.Devaraj, learned counsel for the petitioner (A1) and Mr.M.Babu Muthu Meeran, learned Additional Public Prosecutor 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 (A1) has been in custody since the time of his arrest i.e. 16.01.2019 and this Court, while dismissing the bail application of A2 and this petitioner (A1), 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, the petitioner (A1) and A2 appear to have attacked the deceased resulting in his death.

7. On instructions, learned Additional Public Prosecutor submits that there are no previous cases against the petitioner (A1).

8. Taking into consideration the long period of detention of the petitioner (A1) 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 (A1) is entitled to the relief of suspension of sentence and bail. It is pertinent to state here that this Court, by order dated 16.08.2021 in CrI.M.P.No.5571 of 2021, has suspended the sentence and granted bail to A2.

9. Accordingly, this criminal miscellaneous petition stands allowed and the relief of suspension of sentence and bail is granted to the petitioner (A1) on the following conditions:

- (i) The petitioner (A1) 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 Principal Sessions Judge, (Special Court for SC/ST Act Cases), 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 (A1) 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/-
02/09/2021

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,
(SPECIAL COURT FOR SC/ST ACT CASES),
SALEM DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE DEPUTY SUPERINTENDENT OF POLICE,
METTUR POLICE STATION,
SALEM DISTRICT.

4 THE SUPERINTENDENT OF PRISON,
CENTRAL PRISON,
SALEM.

+1 C.C. to M/S.M.DEVARAJ Advocate on payment of necessary
charges SR.NO.9515

Order

in
CRL MP.7911/2021
in
CRL A.258/2021

Date :02/09/2021

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TA-03/09/2021