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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2021

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MRS. JUSTICE S.SRIMATHY

Crl.M.P.No.9829 of 2021

in Crl.A.No.444 of 2020

Asarudhin

.. Petitioner/Accused No.1

Vs.

State represented by
The Deputy Superintendent of Police,
Thiruchengode, Sub Division,
Namakkal District.
(Crime No.421 of 2014)

.. Respondent/Complainant

Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C., to suspend the sentence imposed on the petitioner by judgment and order dated 01.10.2020 passed in S.C.No.36 of 2017 on the file of the Sessions Court (Special Court for Cases under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989), Namakkal and to enlarge the petitioner on bail pending disposal of the appeal.

For Petitioner : Mr.M.Vignesh

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

O R D E R

(Made 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 01.10.2020 passed in S.C.No.36 of 2017 on the file of the Sessions Court (Special Court for Cases under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989), Namakkal and to enlarge the petitioner on bail pending disposal of the appeal.



2. The petitioner, who was the first accused in S.C.No.36 of 2017 before the Sessions Court (Special Court for the Cases under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 [for brevity "the SC/ST Act"]), Namakkal, was acquitted of the offence under Section 3(2)(v) of the SC/ST Act, but, convicted and sentenced as follows on 01.10.2020:

S.No.	Provision under which convicted	Sentence
1	Section 302 IPC	Life imprisonment and fine of Rs.1,000/-, in default to undergo one year simple imprisonment.
2	Section 364 IPC	Life imprisonment and fine of Rs.1,000/-, in default to undergo one year simple imprisonment.

The aforesaid sentences are ordered to run concurrently.

3. Challenging the above conviction and sentences, the petitioner (A1) has filed CrI.A.No.444 of 2020 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. Heard Mr.M.Vignesh, 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 on 07.07.2014 around 8.30 p.m., the deceased Rathinam and the petitioner consumed liquor and it is alleged that on account of previous motive, the petitioner had assaulted Rathinam and caused his death.

6. It is not the case of the prosecution that the petitioner had used any weapon to attack Rathinam, but, had assaulted him by hands. He is said to have thrown tar mixture at Rathinam. It is seen that Sidhik (A2) was discharged by the trial Court as he was found to be mentally retarded.

7. The petitioner (A1) has raised substantial grounds in the appeal which require detailed appraisal. Moreover, the petitioner (A1) has been in incarceration from 01.10.2020. 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 (A1) is entitled to the relief of suspension of sentence and bail.

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



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- (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 Sessions Court, (Special Court for the Cases under the SC/ST Act), Namakkal;
- (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 respondent/police everyday at 10.30 a.m. for a period of four weeks and thereafter, the petitioner (A1) 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/-
25/10/2021

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

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SESSIONS JUDGE,
(SPECIAL COURT FOR CASES UNDER THE SCHEDULED CASTES AND
SCHEDULED TRIBES (PREVENTION OF ATROCITIES) ACT, 1989),
NAMAKKAL.

2 THE DEPUTY SUPERINTENDENT OF POLICE,
THIRUCHENGODE, SUB DIVISION,
NAMAKKAL DISTRICT.



3 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

Order

in
CRL MP.9829/2021
in
CRL.A.No.444 of 2020

Date :25/10/2021

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INBA-29/10/2021