



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty Second day of November Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

and

The Hon`ble Mrs Justice R. HEMALATHA

CRIMINAL MISCELLANEOUS PETITION No.11237 of 2021

IN CRL.A.NO.208 of 2021

VIJI @ VIJAYAKUMAR

[PETITIONER/ACCUSED]

Vs

STATEREPLY BY
THE INSPECTOR OF POLICE,
THAKKOLAM POLICE STATION,
ARAKKONAM TALUK,
RANIPET DISTRICT.
(CR.NO. 297/2013)

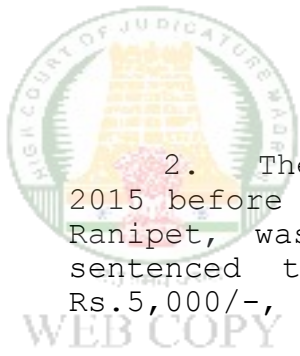
[RESPONDENT/COMPLAINANT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.208 of 2021 on the file of the High Court, the High Court will be pleased to suspend the execution of the sentence and conviction passed by the Learned II Additional District and Sessions Judge at Vellore @ Ranipet in S.C.No.202 of 2015 on 26.03.2021, pending disposal of the above CRL.A.NO.208 of 2021 (IN CRL.MP.NO.11237/2021).

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO. 208 of 2021 on the file of the High Court and upon hearing the arguments of M/S. M.RAVICHANDIRAN Advocate for the Petitioner and of MR.MUNIYAPPARAJ Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

(Order of the Court was 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 26.03.2021 passed in S.C.No.202 of 2015 on the file of the II Additional District and Sessions Court, Vellore @ Ranipet and to enlarge the petitioner on bail pending disposal of the above appeal.



2. The petitioner, who was the first accused in S.C.No.202 of 2015 before the II Additional District and Sessions Court, Vellore @ Ranipet, was convicted of the offence under Section 302 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.5,000/-, in default to undergo six months simple imprisonment.

3. Challenging the aforesaid conviction and sentence, the petitioner (A1) has filed Crl.A.No.208 of 2021 along with the instant criminal miscellaneous petition seeking suspension of sentence and bail.

4. Heard Mr.M.Ravichandran, learned counsel for the petitioner (A1) and Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing for the respondent/State.

5. This is the second petition seeking suspension of sentence and bail and the first petition in Crl.M.P.No.5470 of 2021 in Crl.A.No.208 of 2021 was dismissed as withdrawn on 14.07.2021.

6. This is the case of retaliatory murder, in which, the brother of the accused was murdered by one Uma Lenin. It is alleged that the deceased Narayanan in this case was the friend of Uma Lenin. While Uma Lenin and Thakkali (PW2), son of Narayanan, were returning to Thakkolam by bus, they found speaking to each other, which was not liked by the accused and therefore, the petitioner (A1) and other accused had gone armed to the house of Narayanan on 29.12.2013 and attacked them. It that attack, Thakkali (PW2) was also injured.

7. At this juncture, pertinent it is to point out that the Supreme Court, in Sidhartha Vashisht @ Manu Sharma vs. State (NCT of Delhi)¹, has considered Kashmira Singh v. State of Punjab² and has held as follows:

"30.In the above cases, it has been observed that once a person has been convicted, normally, an appellate court will proceed on the basis that such person is guilty. It is no doubt true that even thereafter, it is open to the appellate court to suspend the sentence in a given case by recording reasons. But it is well settled, as observed in Vijay Kumar [(2002) 9 SCC 364 : 2003 SCC (Cri) 1195 : JT 2002 Supp (1) SC 60] that in considering the prayer for bail in a case involving a serious offence like murder punishable under Section 302 IPC, the Court should consider all the relevant factors like the nature of accusation made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the desirability of releasing the accused on bail after he has been convicted for committing serious offence of murder, etc. It has also been observed in some of the cases that normal practice

1 (2008) 5 SCC 230

<https://hcservices.ecourts.gov.in/hcservices/>

2 1977 SCC (Cri) 559



in such cases is not to suspend the sentence and it is only in exceptional cases that the benefit of suspension of sentence can be granted."

In view of the above reasoning and also taking into consideration the nature of the attack and the facts and circumstances of this case, we are of the opinion that this is not a fit case to grant suspension of sentence and bail to the petitioner (A1) and accordingly, this criminal miscellaneous petition stands dismissed.

-sd/-

22/11/2021

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 II ADDITIONAL DISTRICT AND SESSIONS JUDGE,
VELLORE @ RANIPET.

2 THE INSPECTOR OF POLICE,
THAKKOLAM POLICE STATION,
ARAKKONAM TALUK, RANIPET DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1C.C. to M/S. M.RAVICHANDIRAN Advocate on payment of necessary charges SR.NO.13416

Order
in
CRL MP.11237/2021
in
CRL.A.208/2021
Date :22/11/2021

From 7.2.2001 the Registry is issuing certified copies of the BAIL/Anti.BAIL Orders in this format

CSK 25/11/2021