

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2021

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.M.P.No.8844 of 2020

in

Crl.A.No.541 of 2020

Manikandan

.. Petitioner/sole accused

Vs.

State through its
Inspector of Police,
Mahendramangalam Police Station,
Darmapuri District.
(Crime No.140 of 2015)

.. 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 upon the petitioner by judgment and order dated 16.03.2020 passed in S.C.No.121 of 2015 on the file of the learned Sessions Judge, Fast Track Mahila Court, Darmapuri and to enlarge the petitioner on bail pending disposal of the appeal.

For Petitioner : Mr.B.M.Subash

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

ORDER

(Order of the Court was made by R.PONGIAPPAN, J.)

This criminal miscellaneous petition has been preferred by the accused seeking to suspend the sentence imposed upon him, by judgment and order dated 16.03.2020 passed in S.C.No.121 of 2015 on the file of the learned Sessions Judge, Fast Track Mahila Court, Darmapuri and to enlarge him on bail pending disposal of the appeal.

2. The petitioner, who is the sole accused in S.C.No.121 of 2015 on the file of the learned Sessions Judge, Fast Track Mahila Court, Darmapuri, was convicted of the offence under Section 302 IPC

and sentenced to undergo Life imprisonment and also to pay a fine of Rs.10,000/-, in default, to undergo six months rigorous imprisonment.

3. Challenging the above conviction and sentence, the petitioner/accused has filed Crl.A.No.541 of 2020 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. Heard Mr.B.M.Subash, learned counsel for the petitioner and Mr.R.Muniyapparaj, learned Government Advocate (Crl. Side) appearing for the respondent/State.

5. It is the case of the prosecution that on 01.06.2015 at 1.00pm, the petitioner/accused had gone to Rajam Kalyana Mandapam at Vellichandai and at about 8.00pm, when the petitioner/accused was proceeding near Vellichandai Muniappan Temple, due to heavy rain, the petitioner/accused entered into the nearby house of the deceased Lakshmi and took a vessel to drink water. On seeing this, the deceased abused the petitioner/accused with filthy language, as “எதற்காக வீட்டில் உள்ளே நுழைந்தாய். தேவடியா பையா, கண்டாரஜலி பையா”. Hence, the petitioner/accused dragged the deceased outside the house and kicked her in her hip repeatedly, as a result of which, the deceased sustained injuries over pelvic bone and died due to shock and haemorrhage. Thus, the petitioner/accused committed the offence punishable under Section 302 IPC.

6. The learned counsel for the petitioner/accused would contend that the evidences given by the prosecution witnesses are having lot of contradictions and since the occurrence had happened during the rainy hours, it is impossible for the others to see the occurrence. Further, as the petitioner/accused is not having any previous enmity with the deceased, it is not necessary for the petitioner/accused to drag the deceased Lakshmi. The petitioner/accused is having substantial points for arguing the appeal. He would further submit that during the time of trial, the petitioner/accused was enlarged on bail and during such time, he has not misused the liberty. With the above submissions, he prayed to allow this petition seeking suspension of sentence to the petitioner/accused.

7. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent/State would contend that before the trial Court, the learned trial Judge has appreciated the evidences in a proper manner and convicted the accused and in otherwise, he seriously opposed this petition.

8. Now, on considering the said submissions with the relevant records, it appears that during the time of occurrence, only due to heavy rain, the petitioner/accused entered into the nearby house of the deceased Lakshmi. Therefore, since the petitioner/accused is convicted of offence under Section 302 IPC, a detailed appraisal is

necessary to find out as to whether the petitioner/accused was having any intention and motive to kill the deceased. It is also necessary to appraise the evidences of eyewitnesses, as to chances of seeing the occurrence. Accordingly, the petitioner/accused has raised substantial grounds in the appeal which require detailed appraisal.

9. Moreover, the petitioner/accused has been in incarceration from 16.03.2020. Further, the appeal is not likely to be taken up in the near future. In such view of the matter, coupled with the fact that during the time of trial, the petitioner/accused was enlarged on bail and during such time, he has not misused the liberty, this Court is of the view that the petitioner/accused is entitled to the relief of suspension of sentence and bail.

10. Accordingly, sentence of imprisonment alone is suspended and bail is granted to the petitioner on the following conditions:

- (i) The petitioner 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 learned Sessions Judge, Fast Track Mahila Court, Darmapuri.
- (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 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/-

23/06/2021

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 SESSIONS JUDGE,
FAST TRACK MAHILA COURT,
DARMAPURI

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

3 INSPECTOR OF POLICE,
MAHENDRAMANGALAM POLICE STATION,
DHARMAPURI DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to M/S.B.MOHAN Advocate on payment of necessary charges
Sr.6799

Order

in

Crl.M.P.No.8844 of 2020

in

Crl.A.No.541 of 2020

Date :23/06/2021

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copies of the BAIL/Anti.BAIL Orders in this format

RVR 25/06/2021

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