



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Fifth 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.11910 of 2021

IN CRL.A.NO.329 of 2021

PAZHANI GOUNDER

[PETITIONER/APPELLANT/ACCUSED]

Vs

STATE BY

[RESPONDENT/COMPLAINANT]

THE INSPECTOR OF POLICE,
KALLAVI POLICE STATION,
KRISHNAGIRI DISTRICT.
(CRIME NO.27/2015)

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.329 of 2021 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed against the petitioner in Spl.S.C.No.26/2015 on the file of the Learned Sessions Judge, Fast Track Magalir Neethimandram, Krishnagiri, Krishnagiri District dated 10/08/2018 and enlarge the petitioner on bail pending disposal of the said Crl.A.No.329/2021 on the file of this Hon'ble Court and thus render justice.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.329 of 2021 on the file of the High Court and upon hearing the arguments of MR.E.KANNADASAN Advocate for the Petitioner and of MR.R.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 petition has been filed seeking to suspend the sentence imposed against the petitioner vide order dated 10.08.2018 in Spl.S.C.No.26/2015 on the file of learned Sessions Judge, Fast Track Magalir Neethimandram, Krishnagiri, Krishnagiri District.



2. It is the case of the prosecution that A1 was having illicit intimacy with A2, which was resented by A1's grand daughter/deceased, aged 6 years. It is alleged that A1 and A2 murdered the deceased and threw her in a Well. It is also alleged that before committing the murder of the deceased, A1 had lavished the deceased. Though A2 has been granted suspension of sentence and bail by this Court by order dated 19.03.2019 in CrI.M.P.No.12815 of 2018 in CrI.A.No.584 of 2018, we are of the view that taking into consideration the nature of allegation against A1, it is not a fit case to grant suspension of sentence.

3. It may be relevant to refer to the judgment of the Hon'ble Supreme Court in *Sidhartha Vashisht @ Manu Sharma vs. State (NCT of Delhi)*¹, wherein the Hon'ble Supreme Court has considered *Kashmira Singh v. State of Punjab*² 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 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."

4. In view of the above reasoning and also taking into consideration the facts and circumstances of the case, we are of the opinion that this is not a fit case to grant suspension of sentence and bail to the petitioner.

1 (2008) 5 SCC 230

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

2 1977 SCC (Cri) 559



5. Accordingly, this Criminal Miscellaneous Petition is dismissed.

Registry is directed to prepare the typed set of papers and post the main appeal along with Crl.A.No.584 of 2018 in the first week of January'2022.

-sd/-
25/11/2021

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 SESSIONS JUDGE,
FAST TRACK MAGALIR NEETHIMANDRAM,
KRISHNAGIRI, KRISHNAGIRI DISTRICT.

2 THE JUDICIAL MAGISTRATE,
UTHANGARAI.

3 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
KALLAVI POLICE STATION,
KRISHNAGIRI DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.



7 THE SECTION OFFICER
CRIMINAL SECTION,
HIGH COURT, MADRAS.

WEB COPY

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

Order
in
CRL MP.11910/2021
in
CRL.A.NO.329/2021
Date :25/11/2021

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

CSK 29/11/2021