



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Tenth day of August Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.4148 of 2021
in
Crl.A(MD)No.254 of 2021

K.GNANAVEL ... PETITIONER/ APPELLANT/ ACCUSED NO.1
Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
OOMACHIKULAM POLICE STATION.
CRIME NO.160/2007 ... RESPONDENT/ RESPONDENT/ COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence imposed on 07/01/2021 in S.C.No.256 of 2009 on the file of the Learned Sessions Judge, Mahalir Neethimandram, Madurai and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

Prayer in Crl.A(MD)No.254 of 2021:

To call for the records pertaining to Sessions Case No.256 of 2009 on the file of the learned Sessions Judge, Mahalir Neethimandram, Madurai and to set aside the order of conviction passed in S.C.No.256 of 2009 dated 07.01.2021 and acquit the appellant/ accused from all the charges.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.C.M.ARUMUGAM, Advocate for the petitioner and of Government Advocate(Criminal Side) on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed on 07.01.2021 in SC No.256 of 2009 on the file of the Sessions Judge, Mahalir Neethimandram, Madurai and enlarge the petitioner on bail pending disposal of the criminal appeal.

2.The learned counsel appearing for the petitioner submitted that after full fledged trial, the petitioner was convicted by the trial court for the offence under section 498(A) IPC and sentenced him to undergo 3 years RI and to pay Rs.1,000/-, as fine, in default to undergo 3 months SI; for the offence under 304(B) IPC, sentenced



to undergo 10 years RI and imposed a fine of Rs.2,000/-, in default to undergo 6 months SI and the sentences are directed to run concurrently.

3.The learned counsel appearing for the petitioner further submitted that the petitioner is an innocent person and he was not committed any offence as alleged by the prosecution and that there are several infirmities in the prosecution case and there are contradictions in material particulars between the evidence of the prosecution witnesses and that the petitioner is in jail from 07.01.2021 and prays for suspension of sentence.

4.It is submitted by the learned Government Advocate (Criminal side) appearing for the respondent/State that the petitioner/accused assaulted his wife Gomathi and strangling her to death with a nylon rope and that the trial court on proper appreciation of evidence both oral and documentary, has rightly convicted the petitioner and there are enough materials available on record against the petitioner and there is no infirmity in the prosecution case and prays for dismissal of this petition.

5.This court has carefully considered the rival contentions put forth on either side and also perused the materials available on record.

6.The learned counsel for the petitioner pointed out certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

7.Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties each for a like sum to the satisfaction of the Sessions Judge, Mahalir Neethimandram, Madurai and on further condition that the petitioner shall deposit **Rs.3,00,000/- (Rupees Three Lakhs only) in the name of his son namely Bala Arivarasan Gnanavel, who is having Account No.3420108002806 in Canara Bank, Gomathipuram Branch, Madurai, on or before 20/09/2021** and on further condition that the petitioner shall appear before the respondent police daily twice I.e., at 10.30 am and 5.00 pm, pending appeal, failing which to comply with the above conditions, this petition shall stand dismissed automatically without further reference to this court.



Call on 21.09.2021.

sd/-
10/08/2021

/ TRUE COPY /

/ /2021

WEB COPY

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1 THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM,
MADURAI.
- 2 THE INSPECTOR OF POLICE,
OOMACHIKULAM POLICE STATION.
- 3 THE SUPERINTENDENT, CENTRAL PRISON,
MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to Mr.C.M.ARUMUGAM, Advocate SR.No.5253

ORDER
IN
CRL MP(MD) No.4148 of 2021
IN Cr1.A(MD)No.254 of 2021
Date :10/08/2021

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MS/PN/SAR-1/11.08.2021/3P.6C