



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

Wednesday, the First day of December Two Thousand and Twenty One
PRESENT

The Hon`ble Mrs.Justice R.THARANI

WEB COPY

CRL MP(MD) No.7490 of 2021

IN

CRL A(MD) No.298 of 2020

S.SAMARASAM

... APPELLANT / ACCUSED

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
ARANTHANGI POLICE STATION.
CRIME NO.374 OF 2015.

... 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 Execution of Sentence by granting Bail In SC.No.93 of 2016 dated 20.8.2019 on the file of Sessions Judge Mahila court,Pudukottai District till pending disposal of the Appeal.

Prayer in CRL A(MD) No.298 of 2020:

To set aside the convicted and sentence imposed against the accused under section 304 part ii IPC passed in S.C.No.93 of 2016 on 20.08.2019 on the file of the Court of the Sessions Judge, Mahila Court, Pudukkottai and allow this appeal.

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.M.JEYARAMAN, Advocate for the petitioner and of MR.K.SANJAY GANDHI, Government Advocate on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the sentence passed by the learned Sessions Judge, Mahila Court, Pudukottai District, in S.C.No.93 of 2016, dated 20.08.2019 and to enlarge the petitioner on bail, pending the disposal of the Criminal Appeal.

2.The case against the petitioner is that due to previous motive, on 09.09.2015, at about 11.00 p.m, the petitioner abused the deceased in obscene words and assaulted the deceased with stick on her head. After the stick was broken, the petitioner took an oven blower and assaulted the deceased on her head. Due to shock and haemorrhage, the deceased died on the spot. The petitioner threatened witnesses No.1, who is the sister of the petitioner and the other witnesses with dire consequences. A case was registered against the petitioner in Crime No.374 of 2015, under Sections 294



S.C.No.93 of 2016 by the Mahila Court, Pudukkottai. After trial, the petitioner found the petitioner guilty under Section 302 @ 304 (ii) IPC and he was sentenced to undergo ten years rigorous imprisonment. Against the said conviction and sentence, the petitioner filed an appeal in Crl.A.(MD)No.298 of 2020. Along with the appeal, the petitioner preferred the present application for suspension of sentence.

3.On the side of the petitioner, it is stated that there are contradictions in the evidence of P.W.1 to P.W.3. P.W.1 has deposed that there was another incident, wherein, one Natarajan, who is the brother-in-law of the petitioner, attacked the petitioner and he undertook treatment for 15 days. P.W.1 to P.W.3 were not eyewitnesses and P.W.4 and P.W.5 were hearsay witnesses. The occurrence witness is an interested witness. The place of arrest is doubtful. There is no intention for the petitioner to cause the death of the deceased. There was a previous enmity between the petitioner and P.W.1 regarding the proposal of marriage for the brother of the petitioner. There is contradictions regarding the seizure of M.O.2. Only two wooden pieces were available in the occurrence spot, as per the observation mahazar. The intention for commission of murder is not proved by the prosecution. It is further stated that the complaint itself is doubtful. There is some enmity between one Natarajan and the petitioner and he is the person who induced a case to be registered against the petitioner and there are much more points for arguments in the main appeal and prayed the sentence to be suspended till the disposal of the appeal.

4.On the side of the respondent, it is stated that the petitioner attacked his own mother brutally and caused her death. P.W.1 is the own sister of the petitioner, who is an eye-witness. The prosecution has examined 13 witnesses [P.W.1 to P.W.13] and marked 15 documents [Ex.P1 to P15] and 11 material objects [M.O1 to M.O11]. The *post mortem* certificate of the deceased was marked as Ex.P7. Inquest report was marked as Ex.P14. Admitted portion of confession statement was marked as Ex.P4. P.W.1 to P.W.3 were eye-witnesses, who supported the case of the prosecution. Previous enmity and motive were already proved by the prosecution. The prosecution has proved the case beyond all reasonable doubts and prayed the petition to be dismissed.

5.Heard the learned counsel on either side and perused the materials available on record.

6. It is seen that the petitioner is in custody for the past 6 years and 53 days. He was not on bail from the date of arrest itself. It is seen that there are some points for arguments in the appeal. There is no possibility for the appeal to be heard in the near future. In the above circumstances, this Court is inclined to allow the petition.

7. Accordingly, the substantive sentence of imprisonment alone is suspended till the disposal of the Revision and the petitioner is



WEB COPY

(i) the petitioner is directed to execute a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Sessions Judge, Mahila Court, Pudukottai District;

(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of any valid identity proof to ensure their identity ;

(iii) On release, the petitioner should stay in Kanyakumari District and to sign before the Kanyakumari Town Police Station, Kanyakumari, daily at 10:30 a.m, until further orders. The petitioner should not enter Pudukkottai District, until further orders.

sd/-

01/12/2021

/ TRUE COPY /

/ /2021

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
MAHILA COURT, PUDUKOTTAI
- 2 THE SUPERINTENDENT
CENTRAL PRISON, TRICHY
- 3 THE INSPECTOR OF POLICE
ARANTHANGI POLICE STATION, ARANTHANGI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE INSPECTOR OF POLICE,
KANYAKUMARI TOWN POLICE STATION, KANYAKUMARI DISTRICT.
+1. C.C. to M/S.JEYARAMAN M Advocate SR.No.36809.

ORDER IN
CRL MP(MD) No.7490 of 2021
IN
CRL A(MD) No.298 of 2020
Date :01/12/2021

Ls

MK/VR/SAR.II/02.12.2021/3P/7C

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