



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.M.P.No.4210 of 2022 in Crl.A.No.360 of 2022

Kannan

... Petitioner/Appellant

Versus

State represented by
The Inspector of Police,
Vickirimangalam Police Station,
Ariyalur,
Crime No.103 of 2019.

... Respondent/Complainant

Prayer: Criminal Miscellaneous Petition filed under Section 389(1) r/w 439 of the Code of Criminal Procedure to suspend the sentence, dated 16.02.2022 in Spl. S.C.No.116 of 2019 on the file of the learned Principal District and Sessions Judge, Ariyalur and to release the petitioner/appellant on bail pending disposal of the above appeal.

For Petitioner : Mr.P.Tamilavel

For Respondent : Mr.R.Vinoth Kumar
Govt. Advocate (Crl.Side)

ORDER

This Criminal Miscellaneous Petition is to suspend the sentence, dated 16.02.2022 in Spl.S.C.No.116 of 2019 on the file of the learned Principal District and Sessions Judge, Ariyalur and to release the petitioner/appellant on bail pending disposal of the above appeal.

2. Heard the learned Counsel for the petitioner and learned Government Advocate (Criminal Side) for the respondent.

3. The learned Counsel for the petitioner would submit that PW1 herself had doubted about the M.O(1) in her evidence. Admittedly, as per the materials on record, one complaint was lodged when the victim was taken to the hospital and no F.I.R was registered. But, however only based on the second complaint, the F.I.R has been registered. The cross examination of the investigating Officer would show that he did not even collect the bloodstained clothes of the deceased and the soil



at the site of the fight. Therefore, there are serious infirmities in the investigation. Accordingly, the learned counsel would submit that expect PW1, there is no other eye witnesses in this case.

4. Asfar as PW1 is concerned, from the deposition of PW1 in chief that she had came in search of her husband and witnessed the occurrence would rise a suspicion as to whether she actually witnessed the incident or came back soon thereafter. Citing these aspects, the learned counsel would submit that there is a prima facie case in the Appeal and pray for suspending of sentence of the petitioner.

5. Per contra, the learned Government Advocate would oppose the prayer by citing that the prosecution has proved the charges and the trial court has rightly convicted the accused under Section 304(ii) IPC and even though original charge was under Section 302 IPC, considering the fact that the appellant has caused death on account of the quarrel.

6. I have considered the rival submissions made on either side and perused the material on record.

7. Considering the nature and circumstances of the case and the said arguments extracted above, I am of the view that this is a fit case for suspending the sentence pending disposal of the Criminal Appeal. Hence, I am inclined to suspend the sentence and grant bail to the petitioner on the following conditions:-

(a) the petitioner is ordered to be released on bail, on his executing a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) with two sureties each for a like sum to the satisfaction of the Trial Court;

(b) the petitioner and the sureties shall affix their photographs and left thumb impressions in the surety bonds and the learned Magistrate may obtain a copy of their Aadhar Cards or Bank Pass books to ensure their identities;

(c) the petitioner shall appear before the Trial Court on the first working day of every English Calendar Month at 10.30 A.M until the disposal of the Criminal Revision Case 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 of 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.



8. This Criminal Miscellaneous Petition is ordered accordingly.

-sd/-
10/06/2022

WEB COPY

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 PRINCIPAL DISTRICT
AND SESSIONS JUDGE, ARIYALUR.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
VICKIRIMANGALAM POLICE STATION,
ARIYALUR.

4 THE SUPERINTENDENT,
CENTRAL JAIL, TRICHY.

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

Order

in
CRL MP.4210/2022
in
CRL A.360/2022

Date :10/06/2022

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TA-13/06/2022