



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Crl.M.P.No.5061 of 2021

in

Crl.A.No.179 of 2021

Hameed Hamja

...Petitioner

Vs.

The State represented by
The Inspector of Police,
D-1 Triplicane Police Station,
Triplicane, Chennai.

... Respondent

PRAYER: Criminal Miscellaneous Petitions filed under Section 397(1) Cr.P.C., to suspend the sentence of imprisonment made in the judgment dated 22.03.2021 in S.C.No.336 of 2016 on the file of the learned VI Additional Session Judge, Chennai and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.P.Rajkumar Pandian

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

ORDER

This Criminal Miscellaneous Petition has been preferred by the petitioner/accused, seeking to suspend the sentence imposed upon him, by the judgment dated 22.03.2021 made in S.C.No.336 of 2016 on the file of the learned VI Additional Session Judge, Chennai, and to enlarge him on bail, pending disposal of the appeal.

2. The petitioner herein is the second accused in S.C.No.336 of 2016 on the file of the learned VI Additional Sessions Judge, City Civil Court, Chennai. He was convicted of the offence under Section 307 r/w 34 of IPC and sentenced to undergo ten years of rigorous imprisonment and to pay a fine of Rs.1,00,000/-, in default to undergo further period of one year simple imprisonment. Challenging the said



conviction and sentence, the petitioner has filed the present criminal appeal in CrI.A.No.179 of 2021 along with the instant miscellaneous petition seeking suspension of sentence and bail.

3. The case of the prosecution is that due to the business enmity, all the accused planned to murder P.W.1 and on 27.06.2014, all the accused with the intention to cause death to P.W.1, had invited P.W.1 to A2's mansion and on his arrival, all the accused had locked the door and A1 had attacked P.W.1 on his head with wooden hammer. In continuation, other Accused had inflicted injury to P.W.1 with steel hammer and later, P.W.1 was admitted in the Rajiv Gandhi Hospital. Hence, the case.

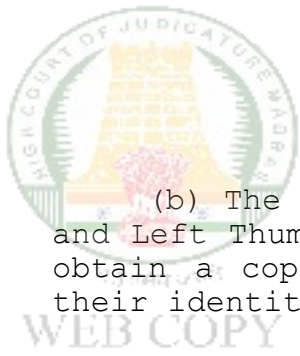
4. The learned counsel appearing for the petitioner submitted that the evidences given by the prosecution witnesses are having lot of contradictions. Further, the said evidences did not show the mens rea which is having by the petitioner. Further, the petitioner is in incarceration from 22.03.2021 and he is the sole bread winner of his family. Therefore, the suspension of sentence will have to be granted.

5. The learned Government Advocate (Criminal Side) appearing for the respondent/State submitted that the conviction has been rendered placing reliance on the evidence given by P.W.1. Further, the evidence given by the injured, it is in correspondence with the evidence given by the doctor who medically treated the P.W.1.

6. Considering the submissions made by the learned counsel appearing for the petitioner and the learned Government Advocate (crl.side) appearing for the respondent police, I am of the view that there are substantial issues to be considered in this appeal, further the evidence given by P.W.1 needs detailed appreciation as to the enmity having by him with the accused. Further in respect to the occurrence, except P.W.1, other eye witnesses have not supported the case of the prosecution and the trial Court has also taken note of the above said fact.

7. Thus, considering the above facts, especially the period of incarceration as above stated, also this criminal appeal is not likely to be taken for final hearing in the near future, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, the reliefs of suspension of sentence and bail are granted on the following conditions:

(a) The petitioner/A2 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 learned VI Additional Sessions Judge, Chennai



(b) The petitioner and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar 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 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.

8. With the above directions, this Criminal Miscellaneous Petition is ordered.

-sd/-
12/04/2022

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 VI ADDITIONAL SESSIONS JUDGE,
CHENNAI.

2 THE INSPECTOR OF POLICE,
D1-TRIPLICANE POLICE STATION,
TRIPLICANE, CHENNAI.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.



4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+2C.C. to M/S.P.RAJKUMAR PANDIAN Advocate on payment of
necessary charges SR.No.5581

Order
in
CRL MP.5061/2021
in
CRL A.179/2021
Date :12/04/2022

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CSK 13/04/2022