



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Ninth day of April Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

and

The Hon`ble Mr Justice A.A. NAKKIRAN

CRIMINAL MISCELLANEOUS PETITION No.5428 of 2022

IN CRL.A.NO.413 of 2021

SURENDBHIRAN

[PETITIONER / APPELLANT / ACCUSED]

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
BARGUR POLICE STATION,
KRISHNAGIRI DISTRICT.
CRIME NO.282 OF 2018.

[RESPONDENT / PROSECUTING
COMPLAINANT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to suspend the sentence and release the petitioner on bail pending disposal of the above Criminal Appeal Crl.A No.413/2021 filed against S.C No.37/2019 on the file of the Hon`ble Sessions Judge, Fast Track Mahila Court, Krishnagiri.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S. R.THIRUMOORTHY, Advocate for the petitioner and of M/S.M.BABU MUTHUMEERAN, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondents the court made the following order:-

P.N.PRAKASH, J.

The petitioner/sole accused has been convicted and sentenced by the Court of Session (Fast Track Mahila Court), Krishnagiri in S.C. No.37 of 2019 vide judgment and order dated 06.08.2021. Challenging the said conviction and sentence, he has preferred the present appeal and also seeks suspension of sentence and bail.



2 Heard Mr. R. Thirumoorthy, learned counsel for the petitioner and Mr. M. Babu Muthumeeran, Additional Public Prosecutor appearing for the respondent/State.

3 This is a case of matricide. It is the case of the prosecution that the deceased Neelavathi is the mother of the petitioner and Selvi (P.W.1). Neelavathi had succeeded in a suit that she had filed in the Sub Court, Krishnagiri, in respect of a mango grove and was intending to register that property in favour of one Vijayan (P.W.9), which was not to the liking of the petitioner and therefore, on 24.07.2008, when the Revenue officials had come to the property for taking measurement, the petitioner is said to have indiscriminately attacked Neelavathy and caused her death.

4 Mr. R. Thirumoorthy, learned counsel for the petitioner, contended that the property was disposed of much earlier and therefore, the motive projected by the prosecution is sans any basis. He further contended that it was Vijayan (P.W.9) who had murdered Neelavathy.

5 The learned Additional Public Prosecutor refuted the aforesaid contention.

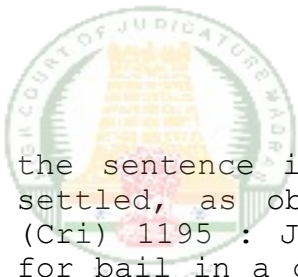
6 We carefully perused the findings given by the trial Court in the impugned judgment and order.

7 The prosecution case rests mainly on the ocular testimony of Arun Kumar (P.W.4), Village Administrative Officer, Thenmozhi (P.W.5), Surveyor, Vijayan (P.W.9) and Devan (P.W.12). It may be pertinent to state here that Arun Kumar (P.W.4) and Devan (P.W.12) are Revenue officials who had come to the mango grove on the application made by Neelavathy for measuring the land. At that time and in their presence, the petitioner had attacked Neelavathi and caused her death. Thus, motive assumes very less importance in a case predicated on eyewitness account. Dr. Lekha (P.W.13), who performed the postmortem, had noted 3 cut injuries around the neck portion of Neelavathi, who was a septuagenarian.

8 This Court gave its anxious consideration to the rival submissions.

9 At this juncture, pertinent it is to point out that the Supreme Court, in Sidhartha Vashisht @ Manu Sharma vs. State (NCT of Delhi)¹, has considered Kashmira Singh v. State of Punjab² 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."

10 In view of the foregoing discussion, this Court is of the view that this is not a fit case for grant of suspension of sentence and bail.

In the result, the instant criminal miscellaneous petition for suspension of sentence and bail is dismissed as being bereft of merits.

-sd/-
29/04/2022

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 SESSIONS JUDGE,
FAST TRACK MAHILA COURT, KRISHNAGIRI.

2 THE INSPECTOR OF POLICE,
BARGUR POLICE STATION,
KRISHNAGIRI DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE



4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

Order
in
CRL MP.5428/2022
in
CRL A.413/2021

Date :29/04/2022

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JPA 09/05/2022