

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2022

CORAM

The Honourable Mr. Justice S.VAIDYANATHAN

and

The Honourable Mr. Justice A.D.JAGADISH CHANDIRA

Crl.M.P.No.7093 of 2022

in Crl.A.No.536 of 2022

Rajendran

.. Petitioner/Accused

Vs.

State represented by
The Inspector of Police,
Pallikaranai Police Station,
Chengalpet District.
(Crime No.3880/2015)

.. Respondent/Complainant

Criminal Miscellaneous Petition filed under Section 389(1) r/w 439 Cr.P.C. to suspend the sentence imposed on the petitioner by judgment dated 03.03.2020 passed in S.C.No.96 of 2016 on the file of the Sessions Mahila Court (FAC), Chengalpattu and to enlarge the petitioner on bail pending disposal of the appeal.

For petitioner : Mr.T.R.Ravi

For Respondent : Mr.M.Babu Muthumeeran
Additional Public Prosecutor

ORDER

(Order of the Court was made by A.D.JAGADISH CHANDIRA, J.)

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by judgment dated 03.03.2020 passed in S.C.No.96 of 2016 on the file of the Sessions Mahila Court (FAC), Chengalpattu and to enlarge the petitioner on bail pending disposal of the appeal.

2. The petitioner, who was the accused in S.C.No.96 of 2016 before the Sessions Mahila Court (FAC), Chengalpattu, was convicted and sentenced as follows on 03.03.2020:

Accused	Provision under which convicted	Sentence
Rajendran	Section 302 IPC	Life imprisonment and fine of Rs.10,000/-, in default to undergo six months simple imprisonment.

3. Challenging the above conviction and sentence, the petitioner has filed CrI.A.No.536 of 2022 along with the instant miscellaneous petition seeking suspension of sentence and bail.

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

5. The case of the prosecution is that the petitioner suspecting the fidelity of his wife Kannammal, had murdered her by assaulting her with a crowbar on her head.

6. The petitioner was charged for the offence under Section 302 IPC, found guilty by the trial Court and convicted and sentenced as above.

7. The learned counsel for the petitioner would submit that this case is entirely based on circumstantial evidence. Out of twelve witnesses examined by the prosecution, Vasanthi (P.W.2), Ramesh (P.W.3) and Rajesh (P.W.4), who are the daughter-in-law and two sons of Kannammal and the petitioner, respectively, have turned hostile and they have not supported the case of the prosecution. He would further submit that Balaji (P.W.5) and Manikandan (P.W.6), who are the witnesses for recording the confession statement of the petitioner and recovery of bloodstained crowbar (M.O.1), bloodstained white colour half sleeve shirt (M.O.2) and bloodstained green colour lungi (M.O.3), have turned hostile and they have also not supported the case of the prosecution. In such circumstances, the trial Court ought not to have convicted and sentenced the petitioner. He would further submit that the petitioner was on bail during trial and he has been in incarceration since 03.03.2020 and he is now aged about 76 years.

8. The learned Additional Public Prosecutor would submit that the murder was committed in the house and the petitioner has not explained with regard to the circumstances. Further, the bloodstain found in the lungi (M.O.3) of the petitioner tallied with the blood group of Kannammal.

9. The petitioner has raised substantial grounds in the appeal, which require detailed appraisal. Moreover, the petitioner has been in incarceration since 03.03.2020. Further, the appeal is not likely to be taken up in the near future. In such view of the matter, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail.

10. Accordingly, this criminal miscellaneous petition stands allowed and the sentence of imprisonment is suspended and bail is granted to the petitioner on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties, each for a like sum to the satisfaction of the Sessions Mahila Court (FAC), Chengalpattu;
- (ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity; and
- (iii) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the 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.

-sd/-
06/07/2022

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,
MAHILA COURT (FAC), CHENGALPET

2 THE INSPECTOR OF POLICE,
PALLIKARANAI POLICE STATION,
CHENGALPET DISTRICT

3 THE SUPERINTENDENT OF POLICE
CENTRAL PRISON, PUZHAL, CHENNAI

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S T.R.RAVI Advocate on payment of necessary charges
SR.NO.10795

Order
in
CRL MP.7093/2022
in
CRL A.563/2022

Date :06/07/2022

From 7.2.2001 the Registry is issuing certified
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JPA 12/07/2022