



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2022

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

CrI.M.P.No.12534 of 2021

in CrI.A.No.607 of 2021

Venkatesh @ Venkatesan

.. Petitioner/Accused

Vs.

State represented by
The Inspector of Police,
B-9, Saravanampatti Police Station,
Coimbatore.
(Crime No.405 of 2012)

.. Respondent/Complainant

Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C., to suspend the sentence imposed on the petitioner by judgment and order dated 10.02.2021 passed in S.C.No.198 of 2014 on the file of the Principal District and Sessions Judge, Coimbatore, and to enlarge the petitioner on bail pending disposal of the appeal.

For Petitioner : Mr.S. Shankar

For Respondent: Mr.R.Muniyapparaj
Additional Public Prosecutor.

O R D E R

(Made by P.N.PRAKASH, J.)

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by judgment and order dated 10.02.2021 passed in S.C.No.198 of 2014 on the file of the Principal District and Sessions Judge, Coimbatore, and to enlarge the petitioner on bail pending disposal of the appeal.



2. The petitioner, who was an accused in S.C.No.198 of 2014 before the Principal District and Sessions Judge, Coimbatore, was convicted and sentenced as follows on 10.02.2021:

Provision under which convicted	Sentence
Section 302 IPC	Life imprisonment and fine of Rs.5,000/-, in default to undergo six months simple imprisonment.

3. Challenging the above conviction and sentence, the petitioner has filed CrI.A.No.607 of 2021 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. Heard Mr.S. Shankar, learned counsel for the petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing for the respondent/State.

5. It is the case of the prosecution that the deceased Selvaraj was the owner of a crane and the petitioner/appellant was the driver of another crane. On account of professional rivalry, it is alleged that on 19.05.2012, around 23.30 hours, the appellant is said to have attacked the deceased Selvaraj and caused his death.

6. The prosecution mainly relied on the evidence of P.W.1 to P.W.4 and also the extra judicial confession, Ex.P4. In paragraph No.42 of the trial court's judgment, the trial judge has accorded a finding that the testimony of P.W.1 and P.W.2 is not worthy of acceptance qua they witnessing the incident. As regards the extra judicial confession, the trial court has disbelieved the evidence of P.W.6 as P.W.6 has stated that he does not know who had recorded the extra judicial confession of the appellant.

7. The petitioner has raised substantial grounds in the appeal, which require detailed appraisal. Moreover, the petitioner has been in incarceration from 10.02.2021. 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.

8. 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, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Principal District and Sessions Judge, Coimbatore;



(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 to ensure their identity; and

(iii) The petitioner shall appear before the respondent/police everyday at 10.30 a.m. for a period of four weeks and thereafter, 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/-

27/01/2022

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 PRINCIPAL DISTRICT AND
SESSIONS JUDGE, COIMBATORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
B-9, SARAVANAMPATTI POLICE STATION,
COIMBATORE DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

+1 C.C. to M/S S.SHANKAR Advocate on payment of necessary charges
SR.NO.1232

Order
in
CRL MP.12534/2021
in
CRL A.607/2021
Date :27/01/2022

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

RW 31/01/2022