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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2022

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

Crl.M.P.No.13837 of 2021

in

Crl.A.No.522 of 2020

Elaiarasan

.. Petitioner/Accused No.1

Vs.

State represented by
The Inspector of Police,
Yethapur Police Station,
Salem District.
(Crime No.89/2018)

.. Respondent/Complainant

Criminal Miscellaneous Petition filed under Section 389 (2) Cr.P.C., to suspend the sentence imposed on the petitioner by judgment and order dated 08.10.2020 passed in S.C.No.428 of 2018 on the file of the I Additional District and Sessions Court, Salem and to enlarge the petitioner on bail pending disposal of the appeal.

For petitioner : Mr.M.G.Udayashankar

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 08.10.2020 passed in S.C.No.428 of 2018 on the file of the I Additional District and Sessions Court, Salem and to enlarge the petitioner on bail pending disposal of the appeal.

2. The petitioner faced trial along with four other accused in S.C.No.428 of 2018 before the I Additional District and Sessions Court, Salem, in which, accused 2 to 5 were acquitted, but, the petitioner (A1) alone was convicted and sentenced as follows on 08.10.2020:



S.No.	Provision under which convicted	Sentence
1	Section 341 IPC	One month simple imprisonment.
2	Section 307 IPC	Ten years rigorous imprisonment and fine of Rs.2,000/-, in default to undergo six months simple imprisonment.
3	Section 302 IPC	Life imprisonment and fine of Rs.5,000/-, in default to undergo six months simple imprisonment.

The aforesaid sentences were ordered to run concurrently.

3. Challenging the above conviction and sentences, the petitioner (A1) has filed CrI.A.No.522 of 2020 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. Heard Mr.M.G.Udayashankar, learned counsel for the petitioner (A1) and Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing for the respondent/State.

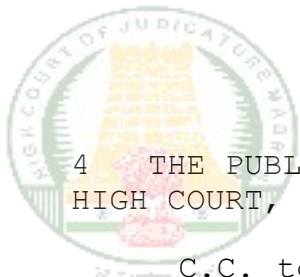
5.This is the second petition seeking suspension of sentence and bail and the first petition in CrI.M.P.No.8497 of 2020 in CrI.A.No.522 of 2020 was dismissed as withdrawn on 23.06.2021.

6.It is the case of the prosecution that the deceased Balasubramaniam objected to the accused for consuming liquor in a temple, on account of which, a quarrel ensued between them. It is alleged that the accused 1 to 5 had attacked Balasubramaniam and his cousin Natarajan (PW2) on 14.02.2018, in which, Balasubramaniam lost his life.

7. It is seen that the trial Court has disbelieved the evidence of the injured witness Natarajan (PW2) qua the other accused, in respect of the assault and has relied upon the same evidence for fastening criminal liability on the petitioner (A1) herein.

8. The petitioner (A1) has raised substantial grounds in the appeal, which require detailed appraisal. Moreover, the petitioner (A1) has been in incarceration since 08.10.2020. In such view of the matter, this Court is of the view that the petitioner (A1) is entitled to the relief of suspension of sentence and bail.

9. Accordingly, this criminal miscellaneous petition stands allowed and the sentence of imprisonment is suspended and bail is granted to the petitioner (A1) on the following conditions:



4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to M/S. M.G.UDAYASHANKAR Advocate on payment of necessary
charges SR.NO.1650

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Order
in
Crl.M.P.No.13837 of 2021
in
Crl.A.No.522 of 2020

Date :01/02/2022

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RVR 02/02/2022