



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2022

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.M.P.No.14250 of 2021

in

Crl.A.No.708 of 2021

Ayyapan

... Petitioner

Vs.

State Represented by,
The Inspector of Police,
Poraiyar Police Station,
Poraiyar Post,
Nagapattinam District.
(Crime No.753 of 2016)

... Respondent

PRAYER: The Criminal Miscellaneous Petition is filed under Section 389(1) & (3) of the Code of Criminal Procedure, pleaded to suspend the sentence and the compensation of Rs.1,00,000/- made in Sessions Case No.177 of 2017 on the file of the Sessions Judge, District Court, Nagapattinam dated 02.12.2021 in pursuance of Crime No.753 of 2016 on the file of the Respondent and grant bail to the petitioner/appellant.

For Petitioner : Mr.D.Veerasekharan

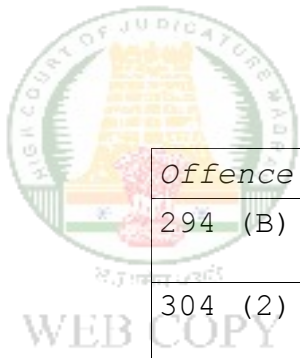
For Respondent : Mr.S.Sugendran
Addl. Public Prosecutor

ORDER

(This case has been heard through Video Conferencing)

This Criminal Miscellaneous Petition has been filed by the petitioner/appellant, seeking suspension of sentence of imprisonment, imposed against the petitioner in S.C.No.177 of 2017 dated 02.12.2021 by the learned Sessions Judge, District Court, Nagapattinam.

2. In and by the judgment of the Trial court, the petitioner was found guilty and convicted and sentenced as follows:-



Offence u/s	Conviction & Sentence
294 (B) IPC	To pay a fine of Rs.500/-, in default, undergo one month S.I.
304 (2) IPC	10 years R.I and to pay a fine of Rs.5000/-, in default, undergo one year S.I.

against which, the present Criminal Appeal has been filed.

3. The submissions of the learned counsel appearing for the petitioner/appellant are as under:-

(a) The petitioner and the deceased are relatives. As per the prosecution, the incident was alleged to have happened during the altercation between the deceased and the petitioner along with other accused. The evidence of the Doctor was not conclusive and the prosecution has not properly elucidated the place of occurrence. The petitioner, has deposited the fine amount and without prejudice on his contention, the petitioner has also prepared to deposit the compensation amount awarded by the Trial Court.

(b) The petitioner/appellant has got a fair chance of succeeding in the Criminal Appeal. There are arguable points available in the Criminal Appeal and the appeal is not likely to be taken for final hearing in the near future and the petitioner is abide to any stringent condition imposed on him by this Court and he would pray the sentence imposed against the petitioner/appellant may be suspended and the petitioner may be enlarged on bail.

4. Mr.S.Sugendran, learned Additional Public Prosecutor, would submit that the petitioner and the deceased are the relatives. The petitioner along with his brothers have assaulted the deceased. However, the Trial Court, had acquitted other accused, found the accused guilty based on the averments made against him is that he had assaulted the deceased with Poovarasu stick. The prosecution has examined the witnesses PW1 to PW12 and marked Ex.P1 to Ex.P13 along with M.O.1 to M.O.5. He would further submit that the Trial Court, had rightly found the petitioner/appellant guilty and convicted and sentenced him as stated above.

5. Heard the learned counsel and perused the materials on record.

6. Taking into consideration, the materials available on record, this Court is of the opinion that the petitioner had made out the case for grant of bail. Accordingly, till the disposal of the Criminal Appeal, suspension of sentence and bail are granted, on the following conditions:-



(a) Accordingly, the petitioner/appellant is ordered to be released on bail on condition to execute his own bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only) before the Superintendent of the concerned prison/Jailor concerned, in which the appellant has been confined and thereafter, on his release, the petitioner/Appellant shall execute two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.2, Mayiladuthurai, within 15 days from the date of commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically and on further conditions that:

(b) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) The petitioner/appellant shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 am., until further orders.

7. The Criminal Miscellaneous Petition is ordered accordingly. The petitioner shall deposit the compensation amount of Rs.1,00,000/- before the Trial Court, at the time of furnishing sureties and the Trial Court is directed to redeposit the said amount in a nationalised bank so the amount accrues interest. Disbursal of this amount shall be decided at the culmination of the Criminal Appeal. If the amount of Rs.1,00,000/- is not deposited and the sureties are not furnished, the Trial Court, shall take steps to secure the petitioner and to remit him in prison to undergo the sentence.

-sd/-

04/02/2022

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,
DISTRICT COURT, NAGAPATTINAM.

2 THE JUDICIAL MAGISTRATE,
NO.2, MAYILADUTHURAI.



3 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
PORAIYAR POLICE STATION,
PORAIYAR POST,
NAGAPATTINAM DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1C.C. to M/S D.VEERASEKHARAN Advocate on payment of necessary
charges SR.No.2002

Order
in
CRL MP.14250/2021
in
CRL A.708/2021
Date :04/02/2022

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

CSK 04/02/2022