



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Eighth day of January Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

and

The Hon`ble Mrs Justice R. HEMALATHA

CRIMINAL MISCELLANEOUS PETITION No.14125 of 2021

IN CRL.A.No.360 of 2021

RANJITH

[PETITIONER/APPELLANT]

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
TIRUPPUR SOUTH POLICE STATION,
TIRUPPUR DISTRICT.
CRIME NO.877/2018.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to suspend the sentence imposed on the petitioner/appellant by the Learnd Principal Sessions Court, Tiruppur in S.C.No.31/2019 dated 05/07/2021 and enlarge the petitioner on bail, pending disposal of the above Crl.A.No.360/2021 and thus render justice.

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.S.N.ARUNKUMAR, Advocate for the petitioner and of M/S.R.MUNIYAPPARAJ, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

[Order of the Court was made by R.HEMALATHA, J.]

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by judgment and order dated 05.07.2021 passed in S.C.No.31 of 2019 on the file of the Principal Sessions Judge, Tiruppur, and to enlarge the petitioner on bail pending disposal of the appeal.



2.The petitioner, the sole accused in S.C.No.31 of 2019 before the Principal Sessions Judge, Tiruppur, was convicted for the offences under Sections 341 and 302 IPC and sentenced as detailed hereunder.

WEB COPY

S.No.	Conviction	Sentence
1.	U/s. 302 IPC	Imprisonment for life and to pay a fine of Rs.1,000/-in default, to undergo simple imprisonment for three months.
2.	U/s.341 IPC	Simple Imprisonment for 15 days.

The learned Principal Sessions Judge, further directed that the sentences shall run concurrently and the period of remand already undergone shall be set off under Section 428 Cr.P.C. Challenging the conviction and sentence, the petitioner has filed CrI.A.No.360 of 2021 with the present petition for suspension of sentence and bail.

3. Heard Mr. S.N. Arun Kumar, learned counsel for the petitioner and Mr. R.Muniyapparaj, learned Additional Public Prosecutor for the respondent/State.

4. The case of the prosecution is that the victim Loganathan @ Srinivasan was a resident of Thennampalayam, Srivari, Tiruppur and was into garlic business. He was residing with his second wife who had a difference of opinion with him and left for her mother's place. On 25.10.2018, at about 10.45 p.m., the victim Loganathan went in his two wheeler for a discussion with his friend Santhosh Kumar (P.W.1) whom he thought would be able to bring about truce between him and his wife. Both of them were in the midst of discussion near Sangilipallam bridge, Kurunji Nagar, when the accused Ranjith objected to their being present in the vicinity at odd hours. This prompted both of them to leave the place immediately and to continue their discussion at Aranmanaipudur third street, Tiruppur. The accused Ranjith who had followed again objected to their presence and in the ensuing argument, the accused pushed down the victim from the two wheeler and stabbed him with a knife on the chest causing multiple stab injuries. Santhosh Kumar (P.W.1) who tried to intervene was also injured in the melee. Sivanandhan (P.W.2) helped the victim to go to the hospital while Yogeswaran (P.W.5), brother of the victim accompanied the victim. The next day, i.e. on 26.10.2018, a police complaint was lodged and the victim, despite undergoing treatment, succumbed to injuries on 11.11.2018.



5. Mr. S.N. Arun Kumar, learned counsel for the petitioner highlighted the following inconsistencies and the deficiencies in the case of the prosecution and pleaded for suspension of sentence and bail as this is a fit case for acquittal.

(1) Inordinate delay in registering FIR and sending the same to the Court.

(2) Apparent corrections in the FIR.

(3) There is inconsistency even in the place of occurrence.

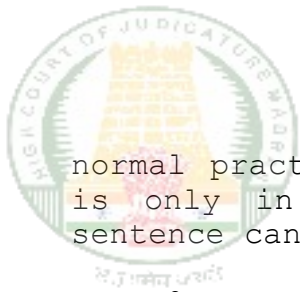
(4) There are inconsistencies in the number of injuries on the body of the deceased.

6. Per contra, Mr. R.Muniyapparaj, learned Additional Public Prosecutor, argued that it was a case of murder of an innocent victim witnessed by his friend P.W.1 who was also injured. The bare facts of the case also reveal that the accused was acting like a "dada" and got infuriated by the very presence of the victim and his friend (P.W.1) leading to fatal attack by him.

7. The deficiencies pointed out by the learned counsel for the petitioner/accused cannot be gone into at this stage. Only during the final hearing of the case, all these contentions can be gone into. Keeping in mind the seriousness of the offence and the conduct of the accused in the manner and circumstances in which he has committed the murder, it would not be appropriate to consider his petition for suspension of sentence.

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

9. In view of the above, we are of the opinion that this is not a fit case to grant suspension of sentence and bail to the petitioner and accordingly, this criminal miscellaneous petition stands dismissed.

-sd/-

28/01/2022

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 SESSIONS COURT,
TIRUPPUR.

2 THE INSPECTOR OF POLICE,
TIRUPPUR SOUTH POLICE STATION,
TIRUPPUR DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

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

Order

in

CRL MP.14125/2021

in

CRL A.360/2021

Date :28/01/2022

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

RW 01/02/2022