



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 2.2.2022

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.M.P.No.14328 of 2021

in

Crl. Appeal No.712 of 2021

1. Alamelu

2. Seetha

Petitioners

vs.

The Inspector of Police,
Krishnagiri Taluk Police Station,
Krishnagiri District.

(Crime No.553/2019)

Respondents

PRAYER: The Criminal Miscellaneous Petition is filed under Section 389 (1) of the Code of Criminal Procedure, to suspend the execution of the sentence against the petitioners/accused in S.C.No.10 of 2021 on the file of the Additional Sessions Judge, Krishnagiri District dated 31.7.2021 and enlarge the petitioners on bail.

For Petitioners : Mr.P.Muthamizh Selvakumar

For Respondent : Mr.S.Sugendran

Government Advocate
(Crl.Side)

ORDER

This Criminal Miscellaneous Petition has been filed by the Petitioners, seeking suspension of sentence of imprisonment, imposed by the learned Additional Sessions Judge, Krishnagiri District in S.C.No.10 of 2021 and enlarge them on bail.

2. In and by the judgment of the Trial court, the petitioners/accused were found guilty and convicted under Section 363(A) read with Section 34 IPC and sentenced thereon to undergo 10 years rigorous imprisonment and to pay a fine of Rs.500/- by each accused in default to undergo simple imprisonment for one month.



3. As per the Charge Sheet, A1 and A2 are residents of Sakkillinathan Pudur Village, Venkatasamuthiram Post, Bargur Taluk, Krishnagiri District and both the accused came to the house of PW1 with a common intention to kidnap his 2-1/2 years old male minor child Moshid from the lawful guardianship of his parents for the purpose of begging. Final Report was taken by Judicial Magistrate II, Krishnagiri. After furnishing copies to the petitioners/accused, the case was committed to the Court of Sessions. The case was taken up as S.C.No.10 of 2021 by the Principal Sessions Court, Krishnagiri and made over to the Trial Court.

4. On the side of the prosecution, P.Ws.1 to 6 were examined and Exs.P1 to P5 were marked. When questioned under Section 313 Cr.P.C. the accused denied the charges and sought to be tried. However, no witnesses were examined on their side. The Trial Court found them guilty and convicted and sentenced them as stated above.

5. Learned counsel appearing for the petitioners would submit that the prosecution has failed to prove the charges against the petitioners beyond all reasonable doubts and other than the statement of the interested witnesses, no other legal evidence has been let in by the prosecution to prove that the petitioners had kidnapped the minor child for the purpose of begging. He would also submit that admittedly, there has been contradictions in the evidence of the witnesses with regard to recovery of the child and it is the evidence of PW4 that the accused attempted to kidnap the child since A1 was not having children. He would further submit that the case of the prosecution is that the accused are said to have gone to the house of PW1 for getting donation for the temple festival and PW4 has deposed that she had seen the accused through the window in the upstairs of her house, but, in Ex.P4 Rough Sketch, no window is shown. He would also submit that other than the interested witnesses, who are close relatives of PW1, no other independent witness has been examined in the village.

6. Learned Government Advocate (Criminal Side) would submit that the petitioners, on 6.10.2019 had gone to the house of PW2 for collecting donation and since the father of the child had not given any donation, they had taken the child away with an idea to maim the child for begging.

7. Having heard the learned counsel appearing for the parties and perused the materials available on record, this court is of the opinion that the petitioners have made out a case for suspension of sentence and grant of bail and thereby, the sentence of imprisonment can be suspended and bail can be granted on certain conditions. Accordingly, till the disposal of the Criminal Appeal, suspension of sentence and bail are granted, on the following conditions :-



i. The petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties, each for a like sum to the satisfaction of the Trial Court.

ii. The petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

8. The Criminal Miscellaneous Petition is ordered accordingly.

-sd/-

02/02/2022

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 ADDITIONAL SESSIONS JUDGE,
KRISHNAGIRI DISTRICT.

2 THE PRINCIPAL SESSIONS JUDGE,
KRISHNAGIRI.

3 THE JUDICIAL MAGISTRATE-II,
KRISHNAGIRI.

4 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI DISTRICT [FOR INFORMATION]

5 THE INSPECTOR OF POLICE
KRISHNAGIRI TALUK POLICE STATION,
KRISHNAGIRI DISTRICT.

6 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.



7 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to M/S.P.MUTHAMIZH SELVAKUMAR Advocate on payment of
necessary charges

Order
in
CRL MP.14328/2021
in
CRL.A.712/2021
Date :02/02/2022

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

CSK 02/02/2022