



Crl.M.P.No.19246 of 2022
in Crl.A.No.891 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

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in Crl.A.No.891 of 2022

Gopalakrishnan

... Petitioner/Appellant

Vs.

State by;
The Inspector of Police
Central Police Station
Tiruppur Town
Tiruppur.
(Crime No.258/2015)

... Respondent

Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C., to suspend the sentence of imprisonment imposed in the judgment dated 30.03.2022 made in S.C.No.110 of 2016, on the file of the learned II Additional District and Sessions Judge, Tiruppur enlarge him on bail.



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For Petitioner : Mr.A.Saravanan

For Respondent : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

N. ANAND VENKATESH, J.

This petition has been filed by the petitioner seeking for the suspension of sentence imposed in S.C.No.110 of 2016, by the learned II Additional District and Sessions Judge, Tiruppur through judgment dated 30.03.2022 and to enlarge the petitioner on bail.

2. The petitioner (A.2) was convicted for an offence under Section 302 IPC, and was sentenced to undergo Life Imprisonment and to pay a fine of Rs. 5000/- , in default, to undergo six months Simple Imprisonment.

3. The case of the prosecution is that the deceased Shankar had a previous dispute with Sivakumar (A.1), Gopalakrishnan (A.2) and one Palpandiyan. As a result of this previous enmity, on 12.05.2015 at about 11.45 p.m., the accused persons are said to have waylaid the deceased Shankar and there was a wordy quarrel and the accused persons attacked the deceased with their hands indiscriminately. As a result of this incident, the deceased Shankar was rushed to



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the Government Hospital, Tiruppur and from there, he was referred to the Government Hospital, Coimbatore. The deceased was declared dead on 13.05.2015 at about 21.15 hours.

4. One of the accused person viz., Palpandiyan was a minor and he was tried before the Juvenile Justice Board. The petitioner was tried along with Sivakumar (A.1) and both of them were convicted and sentenced for an offence under Section 302 IPC.

5. When the matter came up for hearing on 19.09.2022, Registry was directed to make necessary arrangements to produce Sivakumar (A.1) via video conferencing from Central Prison, Coimbatore. We interviewed him and based on his response, we passed the following order:

2. We interviewed him and he stated that he is aware of the case, in which he has been convicted along with Gopalakrishnan (A2) and sentenced to imprisonment for life. We apprised him of his right to have free legal assistance from the Madras High Court Legal Services Authority for filing an appeal against the verdict of the trial Court, for which, he stated that his mother would make necessary arrangements for filing an appeal and he declined our offer. The same is recorded.



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6. Heard Mr.A.Saravanan, learned counsel for the petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor for the respondent.

7. The prosecution has based its case on circumstantial evidence. The learned counsel for the petitioner pointed out to the evidence of P.W.2, which was heavily relied upon to prove the last seen theory. The learned counsel drew our attention to a lot of discrepancies in the evidence of P.W.2, in the light of the evidence of P.W.7, who deposed that there was no electricity connection and that no light was available at the time of the incident.

8. The evidence of other witnesses viz., P.W.1, P.W.4 and P.W.11 were also brought to the notice of this Court and it was contended that there were a lot of gaps in the chain of circumstances and the prosecution was not able to prove beyond reasonable doubts every circumstance that was relied upon and hence, the benefit of doubt must be extended to the petitioner.

9. Considering the facts and circumstances of the case and also considering the fact that the petitioner has already suffered incarceration for a period of nearly nine months and that there are arguable points involved in the appeal and further, the petitioner has no bad antecedents, we are inclined to suspend the sentence



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imposed by the Court below in S.C.No.110 of 2016 dated 30.03.2022, subject to the following conditions:-

- (i) The petitioner shall deposit the fine amount of Rs.5,000/- before the trial Court, if not already deposited.
- (ii) 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 learned II Additional District and Sessions Judge, Tiruppur ;
- (iii) 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 cards or Bank passbooks to ensure their identity; and
- (iv) The petitioner shall appear before the respondent police every Monday at 10.30 a.m., for a period of eight weeks. After completion of the said period, the petitioner shall report before the learned II Additional District and Sessions Judge, Tiruppur, 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.

(P.N.P.,J.) (N.A.V.,J.)
19.12.2022

Internet : Yes/No

<https://www.mhc.kp.gov.in/judis>



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P.N.PRAKASH,J.

and

N. ANAND VENKATESH,J.

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To

- 1.II Additional District and Sessions Judge,
Tiruppur
- 2.The Superintendent of Prison,
Central Prison, Coimbatore.
- 3.The Inspector of Police
Central Police Station
Tiruppur Town
Tiruppur.
- 4.The Public Prosecutor
High Court of Madras.

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