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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the Twenty Ninth day of April Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice R.SUBRAMANIAN
and
The Hon`ble Mr.Justice N.SATHISH KUMAR

CRL MP(MD) No.2537 of 2022
in
CRL.A.(MD)No.419 of 2021

M.DINESH KUMAR ... PETITIONER/ 3rd APPELLANT

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
THILLAINAGAR POLICE STATION,
THILLAINAGAR,
TIRUCHIRAPPALLI - 620018. ... RESPONDENT/ RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the judgement of conviction and sentence dated.17.08.2021 in S.C. No.116 of 2017 on the file of the II Additonal District and Sessions Judge, Tiruchirappalli pending disposal of the appeal and enlarge the petition on bail.

PRAYER IN CRL.A.(MD)No.419 of 2021:
To call for records and set aside the judgment of conviction and sentence dated 17.08.2021 in S.C.No.116 of 2017 on the file of the II Additional District and Sessions Judge, Tiruchirappalli and acquit the accused and allow the present appeal.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.K.S.KATHIRAVAN, Advocate for M/S.GANTHIMATHI.AL., Advocate for the petitioner and of Mr.A.THIRUVADIKUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been filed by the petitioner/appellant seeking to suspend the sentence of life imprisonment imposed on him by the learned II Additional District and Sessions Judge, Tiruchirappalli, by Judgment, dated 17.08.2021, in S.C.No.116 of 2017.

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2. Heard the learned counsel on either side and perused the materials available on record.

3.The petitioner would claim that he was falsely implicated in the case and he has nothing to do with the occurrence.

4. According to the prosecution, there was a tussle between two groups of people on 12.07.2016 at 4.00 p.m. in a wine shop wherein, the son of the defacto complainant namely, Prabhakaran had assaulted the first accused Sekar S/o. Raja. The said Raja on 07.08.2016 at about 8.00 p.m. along with the petitioner and the other accused Pandiyarajan have assaulted the Prabhakaran with knives and his parents were also assaulted. In the attack, Prabhakaran was injured and subsequently, died in the hospital.

5. Though the learned counsel for the petitioner would draw our attention to the evidence on record to contend that the complicity of the petitioner has not been established and the presence of the eye witness is doubtful, we do not propose to dwell deep into the evidence at this stage, as the same would affect the disposal of the appeal.

6. We are however of the prima facie opinion that the petitioner has got an arguable case in the appeal and has made out a prima facie case for suspension of sentence and the evidence relating to the presence of the eye witness compel us to reach the above said conclusion.

7. In view of the above, the Criminal Miscellaneous Petition is allowed, the petitioner is granted bail, subject to the following conditions:

i. The petitioner is directed to be enlarged on bail on executing a bond for Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.IV, Tiruchirappalli.

ii. The petitioner shall appear before the learned II Additional District and Sessions Judge, Tiruchirappalli, on every first Monday of every English Calendar month at 10.30 a.m., till the disposal of the Criminal Appeal.

sd/-
29/04/2022

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02/05/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO
1 THE II ADDITONAL DISTRICT AND SESSIONS JUDGE,
TIRUCHIRAPPALLI.

2 THE JUDICIAL MAGISTRATE NO.IV,
TIRUCHIRAPPALLI.

3 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.

4 THE SUPERINTENDENT,CENTRAL PRISON,
TRICHY.

5 THE INSPECTOR OF POLICE
THILLAINAGAR POLICE STATION,
THILLAINAGAR,
TIRUCHIRAPPALLI – 620018.

6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.AL.GANTHIMATHI, Advocate (SR-4245[I] dated 29/04/2022)

ORDER
IN
CRL MP(MD) No.2537 of 2022 in
CRL.A.(MD)No.419 of 2021
Date :29/04/2022
3/3

RM
MS/JM/SAR-4/02.05.2022/3P.8C

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