



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

Tuesday, the Twelfth 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.4676 of 2022

in

CrI.A(MD)No.581 of 2019

SEKAR

... PETITIONER/APPELLANT NO.3

Vs

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
MANOOR POLICE STATION,
TIRUNELVELI DISTRICT.
CRIME NO.385/2015.

... 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 Execution of Sentence by granting bail in SC No.599 of 2016 dated 19/11/2019 on the file of the IV Additional District And Sessions Judge, Tirunelveli, Tirunelveli District till the disposal of the Criminal Appeal.

PRAYER IN CRL A(MD) No.581 of 2019 :

To call for the records from the lower court in S.C.No.599 of 2016, on the file of the IV Additional Sessions Judge, Tirunelveli, Tirunelveli District and set aside the Judgment dated 19.11.2019 by acquitting the appellants by allowing the 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.V.KATHIRVELU, Senior Counsel for M/S.PRABHU.K, Advocate for the petitioner and of MR.S.RAVI, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

The petitioner seeks suspension of life sentence imposed on him for the offence under Section 302 I.P.C., vide judgment, dated 19.11.2019 in S.C.No.599 of 2016 on the file of the IV Additional District and Sessions Court, Tirunelveli.



2. Heard Mr.V.Kathirvelu, learned Senior Counsel for Mr.K.Prabhu, learned counsel appearing for the petitioner and Mr.S.Ravi, learned Additional Public Prosecutor appearing for the State.

3. The petitioner along with three others have been convicted. Accused 1 and 4 have already been released on bail by this Court in CrI.M.P.(MD) No.10777 and 10782 of 2019 vide order, dated 03.01.2020. Accused 2 was also released on bail by order, dated 07.10.2020 in CrI.M.P(MD) No.4376 of 2020.

4. The petitioner's earlier application was dismissed as withdrawn on 09.12.2021. The Criminal Appeal was directed to be listed during second week of January 2022, however, the same could not be disposed of due to lock-down imposed.

5. Mr.V.Kathirvelu, learned Senior Counsel for the petitioner would vehemently contend that the petitioner has been incarcerated for more than 2 1/2 years after the judgment and the wife of the deceased had turned hostile. He would also point out that there are a lot of inconsistencies in the evidence of the eye witnesses and therefore, the petitioner should be released on bail.

6. Contending Contra, Mr.S.Ravi, learned Additional Public Prosecutor would submit that the deceased's wife had supported the case of the prosecution and there are six eye witnesses. P.W.11 and P.W.12 have spoken about the occurrence and the role of this petitioner (A3) alone. But the said witnesses have not stated anything about the presence of the other accused or other eye witness. Therefore, according to the learned Additional Public Prosecutor the petitioner should not be released on bail.

7. We have considered the rival submissions.

8. We do not propose to examine the minute details regarding the inconsistencies in the evidence at this stage, as the same would affect the decision in the appeal. On over all examination of the evidence on record and the fact that the other accused have been released on bail, we do not find any justification for continued incarceration of the accused, pending appeal. Accordingly, the Criminal Miscellaneous Petition is allowed and the substantive sentence of imprisonment imposed on the petitioner/accused 3 is suspended, 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, Tirunelveli.



ii. The petitioner is directed to stay at Madurai and shall appear before the Principal District and Sessions Court, Madurai, at 10.30 a.m. on every Monday till the disposal of the Criminal Appeal.

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sd/-
12/04/2022

/ TRUE COPY /

12/04/2022
Sub-Assistant Registrar (C.S-IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TIRUNELVELI.
2. THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
MADURAI.
3. THE JUDICIAL MAGISTRATE NO.IV,
TIRUNELVELI.
4. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
5. THE INSPECTOR OF POLICE,
MANOOR POLICE STATION,
TIRUNELVELI DISTRICT.
6. THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
7. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.4676 of 2022
in
Cr1.A(MD)No.581 of 2019
Date :12/04/2022

rm
USK/VR/SAR-IV/12.04.2022/3P/8C