



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Friday, the Sixteenth day of September Two Thousand and Twenty Two

PRESENT

The Hon`ble Mrs.Justice J.NISHA BANU
and
The Hon`ble Mr.Justice N.ANAND VENKATESH

Crl.M.P.(MD) No.11140 of 2022
in
Crl.A.(MD) No.317 of 2022

RAJ

... PETITIONER / APPELLANT

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
SENGOTTAI POLICE STATION,
TENKASI DISTRICT.
(CRIME NO.253/2012)

... RESPONDENT / RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the petitioner on bail by suspending the sentence imposed by the Additional District and Sessions Judge (FTC), Tenkasi in SC No.404 /2013 by judgment dated 11.04.2022, pending the disposal of the main Criminal Appeal on the file of this Hon`ble Court.

PRAYER IN CRL A(MD) No.317 of 2022:

To call for the records in the judgment of the Additional District and Sessions Judge(FTC), Tenkasi dated 11.04.2022 in S.C.No.404/2013 and set aside the same.

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

The petitioner (A2) herein, who was convicted for offence under Section 302 IPC read with 34 IPC and sentenced to undergo life imprisonment and a fine of Rs.2,000/-, in default to undergo simple imprisonment for one year, by judgment and order dated 11.04.2022 passed in S.C.No.404 of 2013 on the file of the Additional District and Sessions Judge, (FTC), Tenkasi, has filed the above criminal appeal. Pending appeal, the present petition has been filed to suspend the sentence and to enlarge the petitioner on bail.



2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent.

3. This is the second bail petition filed by the petitioner and the earlier petition was dismissed as withdrawn by an order dated 06.06.2022. The said petition was not dealt with on merits. In view of the same, the present petition has been filed and submissions have been made on the merits of the case.

4. The case of the prosecution is that the accused persons are known to P.W.1 and P.W.3. P.W.1, her husband and her father-in-law and mother-in-law, usually go to Paramakudi for their work. Whenever they went for work, the people belonging to the village also used to request to accompany them and were willing to receive some advance money for the same. A-1 is said to have told them that he will also come for work, if some advance money is paid to him. It is stated that some advance money was also paid to A-1 in this regard. The deceased is said to have asked for return of the advance money and A-1 is said to have refused to give back the money and he was also not doing the work. In view of the same, there was a previous enmity between the parties.

5. On 10.10.2011, at about 7.00 p.m., the petitioner and his son is said to have abused the husband of P.W.-1 in filthy language and they started attacking him with an aruval (M.O.-1), as a result of the same, the deceased sustained an injury, which was an oblique cut injury measuring 12 cm x 5 cm x bone deep noted on the middle of back of the knee on the right side. In view of the same, the deceased died due to shock and haemorrhage on 01.11.2012.

6. The learned counsel for the petitioner submitted that there is evidence to show that there was a wordy quarrel before the incident and even if the eyewitness evidence is taken to be true, the accused persons will be entitled for exception No.4 to Section 300 IPC. The learned counsel further submitted that the overt act attributed as against the petitioner is that he had held the deceased person and his son had inflicted the cut injury on the leg of the deceased.

7. In the considered view of this Court, considering the facts and circumstances of the case and also of the fact that the deceased had sustained injuries on the back of his knee and as a result suffered shock and haemorrhage and died on 01.11.2012 and also of the fact that the petitioner has been roped in with the aid of Section 34 IPC and also considering the age of the petitioner, who is 81 years, this Court is inclined to consider suspension of sentence for the petitioner. There are various grounds that have to be taken into consideration in the present criminal appeal and it will take some more time for this Court to hear the appeal finally.



8. In view of the above, this Court is inclined to suspend the sentence imposed by the Court below in S.C.No.404 of 2013 dated 11.04.2022 subject to the following conditions:

(I) 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 Judicial Magistrate, Sengottai;

(ii) 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 card or Bank pass Book to ensure their identity; and

(iii) The petitioner shall appear before the respondent police every Monday at 10.30 a.m., for a period of 8 weeks. After completion of the period reporting before the respondent police, the petitioner shall report before the Judicial Magistrate Court, Sengottai, 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.

sd/-

16/09/2022

/ TRUE COPY /

16/09/2022

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

TO

- 1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE(FTC), TENKASI.
- 2 THE JUDICIAL MAGISTRATE, SENGOTTAI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI DISTRICT.
- 4 THE INSPECTOR OF POLICE
SENGOTTAI POLICE STATION, TENKASI DISTRICT.
- 5 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.S.RAMASAMY, Advocate (SR-10126[I] dated 16/09/2022)

ORDER IN

Crl.M.P.(MD) No.11140 of 2022
in Crl.A.(MD) No.317 of 2022
Date :16/09/2022

MK/SBN/SAR.IV/16.09.2022/3P/8C

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