



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

Friday, the Second day of December Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice M.S.RAMESH
and

The Hon`ble Mr.Justice N.ANAND VENKATESH

CRL MP(MD) No.12568 of 2022
in
Crl.A.(MD) No.646 of 2022

BALAN ALIAS BALASUBRAMANIAN ALIAS PAVADAI

... PETITIONER/APPELLANT

Vs

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
VANGAL POLICE STATION,
KARUR DISTRICT.

(*) (CRIME NO. 240 OF 2020) .

... 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 Sentence passed by the Hon`ble Sessions Judge, Karur in S.C.No.7 of 2021, Dated.19.04.2022 and enlarge the petitioner on bail, pending disposal of the Criminal Appeal.

Prayer in in Crl.A.(MD) No.646 of 2022 :

Pleased to call for the records relating to the conviction and sentence passed by the Hon'ble Sessions Judge, Karur in S.C.No.7 of 2021, dated 19.04.2022 to set-aside the same and acquit the appellant.

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.EZHILARASU.C, Advocate for the petitioner and of MR.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

(Order of the Court was made by N. ANAND VENKATESH,J.)

The petitioner herein, who was convicted for offence under Section 302 IPC and sentenced to undergo life imprisonment and to pay fine of Rs.5,000/-, in default to undergo simple imprisonment for six months, by judgment and order dated 19.04.2022 passed in S.C.No.7 of 2021 on the file of the Sessions Judge, Karur, has filed



the above criminal appeal. Pending appeal, the present petition is been filed to suspend the sentence and to enlarge the petitioner on bail.

2. The case of the prosecution is that there was a previous enmity between the deceased and the family of A1 and A2. On 07.05.2020, the deceased is said to have picked up a quarrel with A2 and on hearing about the same, A1 and A4 had questioned the deceased. As a result, the accused persons decided to do away with the deceased and on 07.05.2020, at about 8.00 p.m., the accused persons came to the house of the deceased and A1 and A3 attacked the deceased with wooden logs and A4 and A5 attacked the deceased with aruval. There are totally five accused persons in this case and the petitioner is arrayed as A3. A2 was acquitted from all charges by the Court below.

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

4. The main ground that was urged by the learned counsel for the petitioner is that there was absolutely no enmity between A3 and the deceased and the same is clear from the cross-examination of P.W.1, who was examined as eyewitness in this case. The learned counsel for the petitioner submitted that the petitioner was roped in as an accused in this case only based on the fact that there were bloodstains in the two wheeler belonging to the petitioner. The learned counsel further submitted that the petitioner was convicted for an offence under Section 302 IPC simpliciter, whereas the evidence of the postmortem Doctor examined as P.W.12 shows that even if the petitioner is taken to have attacked with wooden log, that could not have caused the fatal blow on the deceased.

5. Taking into consideration the facts and circumstances of the case and also the fact that a prima facie case has been made out, there are no bad antecedents against the petitioner, fine amount has already been paid and that there are arguable points, 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.

6. In view of the above, this Court is inclined to suspend the sentence imposed by the Court below in S.C.No.7 of 2021 dated 19.04.2022 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, No.II, Karur.



(ii) The sureties shall affix their photographs and 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 concerned Court once in fortnight 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/-
02/12/2022

**(*)For Being Mentined as per order
of this Hon'ble Court dated
14/12/2022 in Crl.MP(MD).12568/2022
in Crl.A(MD).646/2022 by GJJ & SMJ.**

/ TRUE COPY /

15/12/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

TO BE SUBSTITUED WITH THE ORDER DATED 02/12/2022 ALREADY DESPATCHED

1. THE SESSIONS JUDGE, KARUR.
 2. THE JUDICIAL MAGISTRATE NO.II, KARUR.
 3. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE, KARUR DISTRICT.
 4. THE INSPECTOR OF POLICE
VANGAL POLICE STATION, KARUR DISTRICT.
 5. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
 6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.C.EZHILARASU, Advocate (SR-14269[I] dated 02/12/2022)
- +1 CC to M/s.C.EZHILARASU, Advocate (SR-14806[I] dated 14/12/2022)



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ORDER IN

CRL MP (MD) No.12568 of 2022
in

CrI.A. (MD) No.646 of 2022

Date :02/12/2022

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PJL

SA/VR/SAR. /15.12.2022/4P/9C