



CRL MP(MD) No.10315 of 2024

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

Thursday, the Twenty Sixth day of September Two Thousand and Twenty Four
PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN
CRL MP(MD) No.10315 of 2024
in
CRL A(MD) No.419 of 2024

JEYAPAL

... PETITIONER/PETITIONER
/ APPELLANTS/ ACCUSED NO.1

Vs

THE INSPECTOR OF POLICE,
KANYAKUMARI POLICE STATION,
KANYAKUMARI DISTRICT.
CRIME NO.260/2018

... RESPONDENT/RESPONDENT
/RESPONDENT/COMPLAINANT

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 imposed by the Judgment dated 08.04.2024 made in S.C.No. 173/2019 on the file of II Additional Assistant Sessions Judge, Nagercoil and enlarge the petitioner on bail pending disposal of the above appeal.

Prayer in CRL A(MD) No.419 of 2024:

To call for the records in S.C.No.173 of 2019 dated 08.04.2024 passed by the learned II Additional Assistant Sessions Judge, Nagercoil and to 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 MR.M.AJMAL KHAN, Senior Counsel for M/S.AJMAL ASSOCIATES for the petitioner and of MR.M.SAKTHI KUMAR, Government Advocate (Crl.Side) on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the II Additional Assistant Sessions Judge, Nagercoil in SC No.173 of 2019, dated

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



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08/04/2024 and enlarge the petitioner/A1 on bail, pending disposal of the above said

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Criminal Appeal.

2.The case of the prosecution in brief:-

PW1 and PW4 were loving each other. On 10/10/2018, PW1 and PW4 planned to surrender before the Kanyakumari Police station for police protection. The love affair was opposed by the family members. On 12/10/2018, when they were proceeding to Kanyakumari Police Station in a Car bearing registration No.TN-09-BR-8925, the accused persons intercepted the Car with two Cars. All the accused armed with deadly weapons, constituted unlawful assembly and they indiscriminately assaulted PW1 to PW3 by using sickle, sticks and wooden log and abducted PW4 from the custody of PW1. On the basis of the complaint given by PW1, the case was registered against the accused persons.

3.The trial court found all the accused guilty of various offences detailed in the judgment, which need not be repeated hereunder.

4.Against the conviction and sentence, all the accused filed this criminal appeal. Pending appeal, this criminal miscellaneous petition is filed by the petitioner/A1 seeking suspension of sentence and release them on bail.

5.Heard both sides



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6. While passing the order in CrI.MP(MD)No.5234 of 2024 in CrI.A(MD)No.419 of 2024, dated 09/08/2024, the following observation was made by this court:-

“10. But perusal of the entire records shows that A1 was not in favour of the love affair between PW1 and PW4. Being the daughter, PW4 naturally supported the case of A1. Now she got married and living peacefully with children.

11. It is also seen that on the date of the occurrence, the accused went to rescue or abduct PW4 from the custody of the PW1. Enough though, material is available to show that the occurrence really happened, but the problem lies, who assaulted whom and what was the weapon used. PW1 to PW3 suffered grievous injuries. They have spoken clearly about the involvement of A1 to A3. But regarding others, there is no proper evidence with regard to the identification. Subsequent to the occurrence, it appears that no identification parade was also conducted. But the accused were identified by the prosecution witnesses during the course of the trial, since they are relatives.

12. Whether A4 to A7 really involved in the occurrence and whether they shared conspiracy with A1 is a matter for consideration at the time of appeal. But there is enough material against A1 to A3. So, it is too



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premature stage to consider their request for suspension.

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13.Regarding A4 to A7, as noted above, identification has not been properly established. More-over, it is also seen that there was no intention on the part of the accused to cause death to any one of the prosecution witnesses. Their aim was only to rescue PW4.

14.Even though, it is submitted on the side of the accused that they also suffered injuries, but no complaint was given. There is material contradiction between the earlier complaint given by PW1 and the present subject complaint. So, whether the offence under section 307 IPC made out is doubtful and which offence is made out against A1 and A3 can be considered at the time of appeal. So, regarding A1 to A3, as mentioned above, it is too premature stage to grant suspension of sentence to them. Regarding others namely A4 to A7, they are entitled for suspension of sentence."

7.After a month the second and third accused moved a petition stating that the wife of the second accused, who is the mother of the third accused was admitted for spinal card surgery and discharged from the hospital. She requires after care. On that ground without considering the merits of the matter suspension was granted and they were enlarged on bail by the order, dated 24.09.2024.



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8. After that a mention was made by the learned counsel for the petitioner yesterday that co-accused was granted bail by suspending the sentence, stating the fact that no specific overt act attributed against him, this petition has been filed. Since all the co-accused were granted suspension of sentence and enlarged on bail without going into the merits of the matter, even though this accused is stated to be the route cause of the occurrence, considering the period of incarceration, this Court is inclined to grant bail to the petitioner by suspending the sentence.

9. Accordingly, this criminal miscellaneous petition is allowed and the substantive sentence of imprisonment in respect of the petitioner/A1 alone is suspended pending disposal of the appeal and the petitioner/A1 is directed to be enlarged on bail on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the II Additional Assistant Sessions Judge, Nagercoil and on further condition that he must report before the said court on the first working day of every week at 10.30 am until further orders.

sd/-
26/09/2024

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26/09/2024

Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO

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1 THE II ADDITIONAL ASSISTANT SESSIONS JUDGE, NAGERCOIL.

2 THE INSPECTOR OF POLICE, KANYAKUMARI POLICE STATION,
KANYAKUMARI DISTRICT.

3 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.

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

+1 CC to M/S.AJMAL ASSOCIATES, Advocate (SR-11809[I] dated 26/09/2024)

ORDER

IN

CRL MP(MD) No.10315 of 2024

in

CRL A(MD) No.419 of 2024

Date :26/09/2024

RS//SAR-(26.09.2024) 6P 6C

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