



Crl.M.P.No.1302 of 20__
in Crl.A.No.100 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2022

CORAM

The Honourable Mr. Justice **S.VAIDYANATHAN**
and
The Honourable Mr. Justice **A.D.JAGADISH CHANDIRA**

Crl.M.P.No.1302 of 2022
in Crl.A.No.100 of 2022

Mohan @ Oomaiyan

..

Petitioner/Accused

Vs.

State represented by
The Inspector of Police,
Ammamet Police Station,
Salem District.
Crime No.842 of 2017

.. Respondent/Complainant

Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. to suspend the sentence imposed on the petitioner by judgment dated 22.07.2021 passed in S.C.No.248 of 2018 on the file of the III Additional District and Sessions Court, Salem and to enlarge the petitioner on bail pending disposal of the above appeal.

For petitioner : Mr.R.Nalliyappan

For Respondent : Mr.M.Babu Muthumeeran
Additional Public Prosecutor



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ORDER

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This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by judgment dated 22.07.2021 passed in S.C.No.248 of 2018 on the file of the III Additional District and Sessions Court, Salem and to enlarge the petitioner on bail pending disposal of the above appeal.

2. The petitioner, who was an accused in S.C.No.248 of 2018 before the III Additional District and Sessions Court, Salem, was convicted and sentenced as follows on 22.07.2021:

<i>S.No.</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
1	Section 302 IPC	Life imprisonment and fine of Rs.5,000/-, in default to undergo six months rigorous imprisonment.

3. Challenging the above conviction and sentence, the petitioner has filed Crl.A.No.100 of 2022 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. Heard Mr.R.Nalliyappan, learned counsel for the petitioner and Mr.M.Babu Muthumeeran, learned Additional Public Prosecutor appearing for the respondent/State.

<https://www.mhc.tn.gov.in/jud5>. The case of the prosecution is that due to rivalry in getting



masonry work, the petitioner is said to have committed the murder of the deceased Selvam by inflicting two stab injuries.

6. After completing the investigation, the respondent/police has filed a final report against the petitioner for the offence under Section 302 IPC.

7. The trial Court, after considering the evidence on record and hearing either side, found “guilty” and convicted and sentenced the petitioner as above.

8. The learned counsel for the petitioner would submit that it is the case of circumstantial evidence and though Ravi (P.W.6) in this case is said to have witnessed the occurrence, he has not given any complaint to the police and thereby, created the doubt with regard to the very presence of Ravi (P.W.6) at the place of occurrence. He would further submit that the body of Selvam was found in a school verandah on the next day morning of the occurrence and the complaint has been given by Chinnappan, father of Selvam, who has been examined as P.W.1. Though Chinnappan (P.W.1), in his evidence, has stated that he knows about the enmity between the petitioner and Selvam, he has not stated anything with regard to the same



while giving the complaint. He would further submit that the petitioner has raised valid grounds in the appeal and thereby, prayed for suspension of sentence and bail to the petitioner.

9. The learned Additional Public Prosecutor would submit that Ravi (P.W.6) is an eyewitness to the offence and he has witnessed the quarrel between the petitioner and Selvam. He would further submit that the petitioner had inflicted two stab injuries on Selvam, which resulted in his death. Therefore, he opposed the grant of suspension of sentence and bail to the petitioner.

10. The petitioner has raised substantial grounds in the appeal, which require detailed appraisal. Moreover, the petitioner has been in incarceration since 22.07.2021. Further, the appeal is not likely to be taken up in the near future. In such view of the matter, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail.

11. Accordingly, this criminal miscellaneous petition stands allowed and the sentence of imprisonment is suspended and bail is granted to the petitioner on the following conditions:



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- (i) The petitioner shall execute a bond for a sum of Rs.25,000/- with two sureties, each for a like sum to the satisfaction of the III Additional District and Sessions Court, Salem;
- (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 and mobile numbers to ensure their identity;
- (iii) The petitioner shall appear before the trial Court on every Monday at 10.30 a.m. (in case, if Monday is holiday, he shall appear on the next working day) 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;
- (iv) Independent of Section 317 Cr.P.C., in case of any emergency due to treatment, hospitalization, sudden death of his relatives, etc., the petitioner shall also intimate the jurisdictional police about the details of place of visit, name of the contact person with Aadhar card or any other photo identity of that person along with reasons therefor and the number of days of absence in the locality, before leaving Tamil Nadu;



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- (v) The petitioner shall furnish his mobile number, which shall not be changed till the issue comes to a logical conclusion and permanent residential address to the police and the trial Court. The petitioner is permitted to change the portability and not the mobile number; and
- (vi) The petitioner shall not enter into the jurisdictional limit of the respondent/police station.

(S.V.N., J.) (A.D.J.C., J.)
28.07.2022

nsd



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To

- 1.The III Additional District and Sessions Judge,
Salem.
- 2.The Inspector of Police,
Ammamet Police Station,
Salem District.
- 3.The Superintendent of Prison,
Central Prison,
Coimbatore.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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S.VAIDYANATHAN, J.
and
A.D.JAGADISH CHANDIRA, J.

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