



Crl.M.P.No.5219 of 2022
in Crl.A.No.426 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON : 12.10.2022

ORDER PRONOUNCED ON : 01.12.2022

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE RMT. TEEKAA RAMAN

Crl.M.P.No.5219 of 2022
in
Crl.A.No.426 of 2022

Vijay
S/o.Saravanan

.. Petitioner

Vs.

State represented by
The Inspector of Police,
Kamanaickenpalayam Police Station,
Tiruppur District.
Crime No.6 of 2020

.. Respondent

Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C.
praying to suspend the sentence imposed against the petitioner in S.C.No.63
of 2021 dated 01.04.2022 by the Principal Sessions Court, Tiruppur.

For Petitioner : Mr.N.Manoharan
For Respondent : Mr.R.Muniyapparaj
Additional Public Prosecutor



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ORDER

P.N.PRAKASH, J

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by judgment and order dated 01.04.2022 passed in S.C.No.63 of 2021 on the file of the Principal Sessions Court, Tiruppur and to enlarge the petitioner on bail pending disposal of the appeal.

2. The petitioner/A2 along with Sudhakaran/A1 in S.C.No.63 of 2021 on the file of the Principal Sessions Court, Tiruppur, was convicted and sentenced as follows on 01.04.2022:

<i>Provision under which convicted</i>	<i>Sentence</i>
Section 302 IPC	Life imprisonment and fine of Rs.5,000/-, in default to undergo three months rigorous imprisonment.
Section 364 IPC	Three years rigorous imprisonment and fine of Rs.5,000/- in default to undergo three months rigorous imprisonment

The aforesaid sentences were ordered to run concurrently.

3. Challenging the above conviction and sentences, the petitioner/A2



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has filed Crl.A.No.426 of 2022 and the petitioner is seeking suspension of sentence and bail in the present petition.

4. Heard Mr.N.Manoharan, learned counsel for the petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing for the respondent/State.

5. It is the case of the prosecution that Nandhakumar [deceased] and the accused were friends; the accused had borrowed Rs.200/- each from Nandhakumar to consume liquor; Nandhakumar demanded return of the money in public, which hurt the accused; so, on 12.01.2020, the accused and Nandhakumar consumed liquor after which, they quarrelled and in the quarrel, Sudhakaran is said to have taken a stone and hit Nandhakumar, which proved fatal.

6. The entire case is based on circumstantial evidence. Admittedly, it



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was this petitioner/A2, who telephoned Bharathiraja [PW-1] and told him that Nandhakumar was lying unconscious. Only thereafter, Bharathiraja [PW-1] came to the place and lodged a complaint implicating the accused.

7. The petitioner/A2 has raised substantial grounds in the appeal, which require detailed appraisal. Moreover, the petitioner has been in incarceration since 01.04.2022. Therefore, this Court is of the view that the petitioner/A2 is entitled to the relief of suspension of sentence and bail.

Accordingly, this criminal miscellaneous petition stands allowed and the sentence of imprisonment is suspended and bail is granted to the petitioner/A2 on the following conditions:

- (i) The petitioner/A2 shall surrender before the trial Court within 10 days from today and execute a bond for a sum of Rs.25,000/- [Rupees Twenty Five Thousand only], with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Principal Sessions Court, Tiruppur;



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- (ii) The petitioner/A2 and 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; and
- (iii) The petitioner/A2 shall appear before the trial Court 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.

[PNP, J.] [TKR, J.]
01.12.2022

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To

- 1.The Principal Sessions Court,
Tiruppur.
- 2.The Inspector of Police,
Kamanaickenpalayam Police Station,
Tiruppur District.
- 3.The Public Prosecutor,
High Court, Madras.

P.N.PRAKASH, J



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and
RMT. TEEKAA RAMAN, J

gm

Pre-delivery order in
Crl.M.P.No.5219 of 2022
in Crl.A.No.426 of 2022

01.12.2022