



WEB COPY



Crl.M.P.No.5771 of 2022
in Crl.A.No.637 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2022

CORAM

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

Crl.M.P.No.5771 of 2022
in Crl.A.No.637 of 2021

Mamtha .. Petitioner/Accused

Vs.

State represented by
The Inspector of Police,
G-3, Kilpauk Police Station,
Chennai.
(Crime No.2005 of 2015)

.. Respondent/Complainant

Criminal Miscellaneous Petition filed under Section 389 Cr.P.C., to suspend the sentence imposed on the petitioner by judgment dated 23.11.2021 passed in S.C.No.264 of 2016 on the file of the V Additional Sessions Court, Chennai and to enlarge the petitioner on bail pending disposal of the appeal.

For petitioner : Mr.M.Rajavelu

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



Crl.M.P.No.5771 of 2021
in Crl.A.No.637 of 2021

ORDER

(Order of the Court was made by *A.D.JAGADISH CHANDIRA, J.*)

WEB COPY

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by judgment dated 23.11.2021 passed in S.C.No.264 of 2016 on the file of the V Additional Sessions Court, Chennai and to enlarge the petitioner on bail pending disposal of the appeal.

2. The case of the prosecution is that the petitioner was living along with her husband and two children. On 07.10.2015, the husband of the petitioner came home in an inebriated condition and therefore, a wordy quarrel arose between the spouses. The petitioner was depressed due to the behaviour of her husband. On 08.10.2015, the petitioner was alone in the house after the children left to school and she decided to commit suicide after killing the children and therefore, around 15.00 hours on the same day, when her daughter Yakshi was lying on the bed after returning from school, the petitioner had strangled her with an inskirt tape. Thereafter, when the petitioner's son Kushith came home around 16.00 hours, she asked him to lie down beside her sister and as he refused, the petitioner dashed Kushith's head against the wall and strangled him with the same inskirt tape. Thereafter, the petitioner also tried to commit suicide by consuming some tablets and cutting her wrist. However, the petitioner was saved.



Crl.M.P.No.5771 of 2021
in Crl.A.No.637 of 2021

3. After completion of the investigation, the respondent/police had filed a final report against the petitioner for the offences punishable under Section 302 IPC (2 counts).

4. The petitioner was tried in S.C.No.264 of 2016 before the V Additional Sessions Court, Chennai, in which, the learned trial Judge, has, by judgment and order dated 23.11.2021, convicted and sentenced the petitioner as follows:

<i>Provision under which convicted</i>	<i>Sentence</i>
Section 302 IPC (2 counts)	Imprisonment for life, for each count.
The aforesaid sentences were ordered to run concurrently.	

5. Challenging the above conviction and sentences, the petitioner has filed Crl.A.No.637 of 2021 along with the instant criminal miscellaneous petition seeking suspension of sentence and bail.

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



Crl.M.P.No.5771 of 2021
in Crl.A.No.637 of 2021

WEB COPY

7. The learned counsel for the petitioner would submit that even as per the case of the prosecution, the petitioner had been subjected to continuous harassment and torture by her husband and she became mentally upset and due to the mental illness, she had committed the said acts. He would further submit that the petitioner had examined Dr.M.Anand Prathap (D.W.1) and Dr.Hariprasath (D.W.2) to prove the mental illness, whereas, the trial Court has failed in taking into consideration of the same. He would further submit that the petitioner has got good case on merits and thereby, seeks for suspension of sentence and bail.

8. The learned Additional Public Prosecutor would submit that due to the quarrel between the petitioner and her husband, the petitioner had attempted to commit suicide after killing her children. However, the petitioner was saved, but, unfortunately, the two children have lost their lives.

9. The petitioner has raised substantial grounds in the appeal, which require detailed appraisal. Further the appeal is not likely to be taken up in the near future. Moreover, the petitioner has been in incarceration since 23.11.2021. Taking into consideration the facts and circumstances of the



Crl.M.P.No.5771 of 2021
in Crl.A.No.637 of 2021

suspension of sentence and bail.

WEB COPY

10. 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:

- (i) The petitioner shall be released on bail on she executing a bond for a sum of Rs.10,000/-, with two sureties, each for a like sum to the satisfaction of the V Additional Sessions Court, Chennai;
- (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 mobile number, Aadhar card or Bank pass Book to ensure their identity; and
- (iii) The petitioner 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 she is not able to appear before the trial Court on any day, she 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 her absence, as directed by the trial Court.

(S.V.N., J.) (A.D.J.C., J.)
04.07.2022

nsd



Crl.M.P.No.5771 of 2021
in Crl.A.No.637 of 2021

- 1.The V Additional Sessions Judge,
Chennai.
- 2.The Inspector of Police,
G-3, Kilpauk Police Station,
Chennai.
- 3.The Superintendent of Prison,
Special Prison for Women,
Puzhal, Chennai.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



WEB COPY



Crl.M.P.No.5771 of 2022
in Crl.A.No.637 of 2021

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

nsd

Crl.M.P.No.5771 of 2022
in Crl.A.No.637 of 2021

04.07.2022