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CrI.M.P. No. 6320 of 2022
in
CrI.A. No.132 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2022

CORAM

**THE HON'BLE MR.JUSTICE S. VAIDYANATHAN
AND
THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA**

CrI.M.P.No.6320 of 2022
in
CrI.A.No.132 of 2021

1. Jai @ Kathiravan
2. Jeeva @ Jeevanatham

..Petitioners

Vs.

1. State rep. by its
Deputy Superintendent of Police,
Tiruvannamalai East Police Station,
Tiruvannamalai District.
(Crime No.247 of 2016)

2. Jayavel
(impleaded as per order dated 13.07.2022 in
CrI.M.P.No.9423 of 2022)

..Respondents

Prayer: Criminal Miscellaneous Petition under Section 389(1) & 439 of
Cr.P.C. to suspend the sentence passed in Spl.S.C.No.89 of 2019 vide
Judgment dated 19.01.2021 on the file of the learned Special Sessions Judge
for SC & ST Cases, Tiruvannamalai and enlarge the petitioners on bail



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pending disposal of the above Criminal Appeal.

For Petitioners :: Mr.V.R.Thangavelu
for M/s.Om Sai Ram

For Respondents :: Mr.M. Babu Muthumeeran
Addl. Public Prosecutor (R1)
Mr.R.John Sathyan (R2)

ORDER

S. Vaidyanathan,J.

And

A.D. Jagadish Chandira,J.

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioners by judgment and order dated 19.01.2021 passed in Spl.S.C.No.89 of 2019 on the file of the Sessions Court, Special Court for trial of Cases under Section Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity “the SC/ST Act”), Tiruvannamalai and to enlarge the petitioners on bail pending disposal of the above appeal.

2. The petitioners, who were A1 and A2 in Spl.C.C.No.89 of 2019 on the file of the Sessions Court, Special Court for trial of Cases under Section SC/ST Act, Tiruvannamalai, was convicted and sentenced as



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follows on 19.01.2021:

S.No.	<i>Provision under which convicted</i>	<i>Sentence</i>
1	Section 120-B IPC	Life imprisonment and fine of Rs.5,000/-, in default to undergo two years rigorous imprisonment.
2	Section 3(2) (v-a) of the SC/ST Act	Life imprisonment and fine of Rs.5,000/-, in default to undergo two years rigorous imprisonment.
3	Section 449 IPC	Five years imprisonment and fine of Rs.3,000/-, in default to undergo one year rigorous imprisonment.
4	Section 392 IPC	Five years imprisonment and fine of Rs.3,000/-, in default to undergo one year rigorous imprisonment.
5	Section 302 IPC	Life imprisonment and fine of Rs.5,000/-, in default to undergo two years rigorous imprisonment.
6	Section 201 IPC	Three years imprisonment and fine of Rs.2,000/-, in default to undergo one year simple imprisonment.

The aforesaid sentences were ordered to run concurrently.

3. Challenging the above conviction and sentences, the petitioners have filed Crl.A.No.132 of 2021 with the instant criminal miscellaneous petition seeking suspension of sentence and bail.



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4. Heard Mr.V.R.Thangavelu, learned counsel for the petitioners and Mr.M.Babu Muthumeeran, learned Additional Public Prosecutor appearing for the 1st respondent/State as well as Mr.R.John Sathyan learned counsel appearing for the 2nd Respondent.

5. Mr.V.R.Thangavelu, learned counsel for the petitioners would fairly submit that this is the second Application for suspension of sentence in respect of A2 and this Court, by order dated 16.09.2021, had dismissed the earlier petition. He would further submit that though the present petition has been filed seeking suspension of sentence in respect of both the petitioners, he would press the petition only in respect of the second petitioner alone on the ground that the 2nd petitioner is suffering from Diabetes Mellitus type-2, Systemic Hypertension Coronary Artery Disease, Chronic Obstructive Pulmonary Disease, Congestive Cardiac failure with reduced Ejection Fraction 25% Dilated Cardio Myopathy and left diabetic foot non-healing ulcer, which if unattended would result in amputation of his left leg endangering his life. He would further submit that the 2nd petitioner needs to be admitted in a private hospital in Chennai for speciality treatment and would seek for interim suspension.



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6. When the matter is taken up for hearing on 24.08.2022, it was represented by the learned Additional Public Prosecutor that the condition of the 2nd Petitioner has become bad and that he was shifted to Adukkamparai Government Hospital and he is under treatment and this Court directed the learned Additional Public Prosecutor to obtain the certificate from DEAN, Government Hospital Adukkamparai with regard to the status of the Petitioner.

7. Today, when the matter is taken up, medical report of the 2nd Petitioner dated 24.08.2022 has been produced before this Court and the same is extracted hereunder:

"Sir,

*This is to kindly report that Mr.Jeevanandham CT 3878, a known case of **DIABETES MELLITUS Type-2, SYSTEMIC HYPERTENSION, CORONARY ARTERY DISEASE, CHRONIC OBSTRUCTIVE PULMONARY DISEASE, CONGESTIVE CARDIAC FAILURE, with reduced EJECTION FRACTION 25%, DILATED CARDIO MYOPATHY and left DIABETIC FOOT non-healing ulcer**, who has been managed in prison HOSPITAL with his regular medicines, Insulin and supportive care, had recurrent episodes of breathlessness and chest pain on 17.07.2021 and*



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*hence he was given first aid and admitted in GVMCH, Vellore later discharged on 28.07.2021, again he developed similar symptoms and hence given first aid and admitted in GVMCH as emergency op and later he got discharged on 13.08.2021 with his **Ejection fraction 39%** with non-healing left diabetic foot. He was managed with regular medications prescribed by GVMCH specialists and with regular wound dressings. On 4.12.2021 midnight he had hypoglycaemic episode and with loss of conscious, he was given first aid with 25% dextrose and later admitted in GVMCH, Vellore, there he was managed in IMCU and then in medical ward later discharged on 08.01.2022 with anaemia correction, **ejection fraction 32%** with non-healing Left foot ulcer. Since then he has been managed in prison hospital.*

*On 11.8.2022 early midnight he had complaints of breathing difficulty with cough, he was given first aid at prison hospital and his symptoms subsided, later he was referred to GVMCH Vellore for evaluation and further management, on same day he got admitted in GVMCH, was managed and discharged on 24.08.2022 with the diagnosis of **DIABETES MELLITUS Type-2, SYSTEMIC HYPERTENSION, CORONARY ARTERY DISEASE, CHRONIC OBSTRUCTIVE PULMONARY DISEASE, CONGESTIVE CARDIAC FAILURE, with reduced EJECTION FRACTION 25%, DILATED CARDIO MYOPATHY and left DIABETIC FOOT non-healing ulcer.**"*

8. Learned Additional Public Prosecutor has no serious objection in



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grant of interim suspension of sentence to the second petitioner for a period of eight weeks on the medical grounds grounds.

9. Mr.John Sathyan, learned counsel appearing for the 2nd Respondent strongly opposed for grant of interim suspension of sentence to the 2nd Petitioner.

10. Taking into consideration the facts and circumstances and the health condition of the 2nd petitioner, we are inclined to grant interim suspension of sentence to the 2nd petitioner alone for a period of eight weeks i.e, till 01.11.2022 for taking speciality treatment in a private hospital at Chennai. The Petition stands dismissed in respect of the 1st Petitioner.

11. Accordingly, the sentence of imprisonment imposed on the 2nd petitioner stands suspended till 01.11.2022 and interim bail is granted to the 2nd petitioner on the following conditions:

- (i) The 2nd 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 Judicial Magistrate No.1, Thiruvannamalai.



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- (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 2nd Petitioner shall stay at Chennai and at the time of furnishing the sureties he shall provide the address of his accommodation at Chennai. He shall not leave the jurisdictional limit of Chennai without intimating to the respondent police.

10. The 2nd petitioner/A2 shall surrender before the Prison Authorities on 02.11.2022. In the event of non-surrender on 02.11.2022, the respondent shall take steps to secure and commit him to prison. The petition in respect of the second petitioner is ordered accordingly and it stands dismissed in respect of the first petitioner is concerned.

11. Post the matter for “reporting compliance” on 03.11.2022.

(S.V.N., J.) (A.D.J.C., J.)
25.08.2022

arr

(Note to Office: Issue order copy on 26.08.2022)



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To

1. The Deputy Superintendent of Police,
Tiruvannamalai East Police Station,
Tiruvannamalai District.
2. The Judicial Magistrate Court No.1,
Thiruvannamalai.
3. The Special Session Judge for SC & ST Cases,
Tiruvannamalai
4. The Superintendent,
Central Prison, Vellore.
5. The Public Prosecutor,
High Court, Madras.



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