



Crl.M.P.No.6318 of 2022
in Crl.A.No.639 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2022

CORAM

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

Crl.M.P.No.6318 of 2022
in Crl.A.No.639 of 2021

Ravi .. Petitioner/Accused

Vs.

State represented by
The Inspector of Police,
Singarapettai Police Station,
Krishnagiri District.
(Crime No.130/2019)

.. Respondent/Complainant

Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. to suspend the sentence imposed on the petitioner by judgment dated 27.08.2021 passed in S.C.No.161 of 2019 on the file of the Sessions Court, (Fast Track Mahila Court), Krishnagiri and to enlarge the petitioner on bail pending disposal of the above appeal.

For petitioner : Mr.P.M.Duraiswamy

For Respondent : Mr.R.Muniyapparaj
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 27.08.2021 passed in S.C.No.161 of 2019 on the file of the Sessions Court, (Fast Track Mahila Court), Krishnagiri and to enlarge the petitioner on bail pending disposal of the above appeal.

2. The petitioner, who was an accused in S.C.No.161 of 2019 before the Sessions Court, (Fast Track Mahila Court), Krishnagiri, was convicted and sentenced as follows on 27.08.2021:

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

3. Challenging the above conviction and sentence, the petitioner has filed Crl.A.No.639 of 2021 along with the instant miscellaneous petition seeking suspension of sentence and bail.

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



5. The case of the prosecution is that on 04.04.2019 around 11.00 p.m., the petitioner is said to have committed the murder of his wife Kamatchi in his residence on suspecting her fidelity.

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 the prosecution alleges that Iyyammal (P.W.2), daughter of the petitioner, was present at the scene of occurrence, she has not supported the case of the prosecution. He would further submit that the medical evidence also does not support the prosecution case. It is his further submission that the alleged time of death is 11.00 p.m. on 04.04.2019 and the postmortem was conducted on the next day morning around 11.15 a.m., but, as per the medical evidence,



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stated that the deceased Kamatchi could have died 24 – 26 hours prior to the postmortem. He would further submit that the petitioner was not found inside the house at the time of occurrence and therefore, the trial Court has erred in shifting the burden on the petitioner and convicting him. It is his further submission that the petitioner has raised valid grounds in the appeal and prayed for suspension of sentence and bail to the petitioner.

9. The learned Additional Public Prosecutor would submit that the petitioner after committing the offence surrendered before Anandhan (P.W.13), Village Administrative Officer and gave a confession statement, based on which, a billhook (M.O.3) was recovered and when the same was subjected to forensic/chemical examination, it came to light that the bloodstains found in the billhook (M.O.3) tallied with the blood group of Kamatchi. It is his further submission that the prosecution has proved the case by examining eighteen witnesses and marking thirty one exhibits and eleven material objects. Hence, he opposed the grant of suspension of sentence and bail to the petitioner.

11. The petitioner has raised substantial grounds in the appeal, which require detailed appraisal. Moreover, the petitioner has been in incarceration since 27.08.2021. Further, the appeal is not likely to be taken



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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.

12. 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 execute a bond for a sum of Rs.25,000/- with two sureties, each for a like sum to the satisfaction of the Sessions Court (Fast Track Mahila Court), Krishnagiri;
- (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;



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- (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;
- (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.

(S.V.N., J.) (A.D.J.C., J.)
29.07.2022

nsd



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To

- 1.The Sessions Judge,
(Fast Track Mahila Court),
Krishnagiri.
- 2.The Inspector of Police,
Singarapettai Police Station,
Krishnagiri District.
- 3.The Superintendent of Prison,
Central Prison,
Vellore.
- 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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