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Crl.M.P.No.7521 of 20__
in Crl.A.No.562 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2022

CORAM

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

Crl.M.P.No.7521 of 2022
in Crl.A.No.562 of 2022

Sumathi

.. Petitioner/Accused No.1

Vs.

State represented by
The Inspector of Police,
Erummapatti Police Station,
Namakkal District.
(Crime No.149 of 2015)

.. Respondent/Complainant

Criminal Miscellaneous Petition filed under Section 389(2) Cr.P.C. to
suspend the sentence imposed on the petitioner by judgment dated
23.12.2021 passed in S.C.No.45 of 2020 on the file of the I Additional
District and Sessions Court, Salem and to enlarge the petitioner on bail
pending disposal of the above appeal.

For petitioner : Mr.PAnbazhagan

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



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ORDER

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by judgment dated 23.12.2021 passed in S.C.No.45 of 2020 on the file of the I 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.45 of 2020 before the I Additional District and Sessions Court, Salem, was convicted and sentenced as follows on 23.12.2021:

<i>Accused</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sumathi	Section 302 IPC	Life imprisonment and fine of Rs.5,000/-, in default to undergo six months simple imprisonment.

3. Challenging the above conviction and sentence, the petitioner has filed Crl.A.No.562 of 2022 along with the instant miscellaneous petition seeking suspension of sentence and bail.

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



5. The case of the prosecution is that the deceased Dhayalan had illicit intimacy with the petitioner and during the relevant period, he had spent money on the petitioner and later, the petitioner had severed her relationship with Dhayalan. It is the further case of the prosecution that on a fateful day i.e., on 24.10.2015, around 4.00 p.m., Dhayalan had gone to the house of the petitioner and there ensued a quarrel and during the quarrel, the petitioner along with her husband (died) assaulted Dhayalan with aruval, which resulted in his death.

6. After completing the investigation, the respondent/police has filed a final report against the petitioner and her husband 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 admittedly, as per the case of the prosecution, Dhayalan is the one, who had gone to the house of the petitioner and created a problem. He would further submit that during the scuffle, Dhayalan had bit the index finger of the



petitioner and thereafter, she had pushed him, which resulted him in falling down and sustaining injuries. The incident is alleged to have occurred on 24.10.2015 around 4.00 p.m. and Dhayalan is said to have succumbed to the injuries on the next day. He would further submit that the second accused is the husband of the petitioner and after conviction, he has passed away in prison. He prayed for the grant of suspension of sentence and bail to the petitioner.

9. The learned Additional Public Prosecutor would submit that the deceased Dhayalan had illicit intimacy with the petitioner and she had eloped with Dhayalan earlier and thereafter, severed the relationship with Dhayalan and returned to her husband. On the date of occurrence, Dhayalan had demanded money spent on the petitioner and there was a quarrel, during which, the petitioner along with her husband assaulted Dhayalan with aruval causing several injuries to him. He would further submit that later, Dhayalan was taken to hospital, where, Dhayalan succumbed to the injuries on the next day. He opposed for 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



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incarceration since 23.12.2021. 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:

- (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 I 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 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;



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- (iv) The petitioner shall furnish her 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
- (v) Till the disposal of the above appeal, the petitioner shall not leave Tamil Nadu without the permission of the trial Court. In case, permission is granted, the petitioner shall furnish the place where she is going to reside and the contact person details viz. aadhar card, mobile number, etc. that are required by the trial Court.

(S.V.N., J.) (A.D.J.C., J.)
20.07.2022

nsd



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To

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- 1.The I Additional District and Sessions Judge,
Salem.
- 2.The Inspector of Police,
Erummapatti Police Station,
Namakkal District.
- 3.The Superintendent of Prison,
Special Prison for Women,
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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