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Crl.M.P.No.7857 of 2022
in Crl.A.No.433 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2022

CORAM

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

Crl.M.P.No.7857 of 2022
in Crl.A.No.433 of 2021

Balraj

.. Petitioner/Accused No.4

Vs.

State represented by
The Inspector of Police,
Kadathur Police Station,
Erode District.
(Crime No.87/2019)

.. Respondent/Complainant

Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C., to
suspend the sentence imposed on the petitioner by judgment dated
10.08.2021 passed in S.C.No.80 of 2019 on the file of the III Additional
District and Sessions Court, Erode at Gobichettipalayam and to enlarge the
petitioner on bail pending disposal of the appeal.

For petitioner : Mr.C.Iyyapparaj

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



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ORDER

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

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This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by judgment dated 10.08.2021 passed in S.C.No.80 of 2019 on the file of the III Additional District and Sessions Court, Erode at Gobichettipalayam and to enlarge the petitioner on bail pending disposal of the appeal.

2. The petitioner, who was the fourth accused in S.C.No.80 of 2019 before the III Additional District and Sessions Court, Erode at Gobichettipalayam, was convicted and sentenced as follows on 10.08.2021:

<i>Accused</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Balraj (A4)	Section 147 IPC, each	Fine of Rs.1,000/-, in default to undergo six month simple imprisonment, each.
	Section 148 IPC, each	Fine of Rs.2,000/-, in default to undergo six months simple imprisonment, each.
	Section 302 r/w 34 IPC, each	Life imprisonment and fine of Rs.5,000/-, in default to undergo one year simple imprisonment, each.
The aforesaid sentences were ordered to run concurrently.		

3. Challenging the above conviction and sentences, the petitioner has filed Crl.A.No.433 of 2021 along with the instant miscellaneous petition seeking suspension of sentence and bail.



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

5. It is the case of the prosecution that Chinraj (A1) is the husband of Palaniammal @ Kannammal (A2); Ramya (A3) is the daughter of Chinraj (A1) and Palaniammal @ Kannammal (A2); Balraj (A4) is the husband of Ramya (A3); Darmaraj (A5) and Suthakar (A6) are close relatives of Balraj (A4).

6. According to the prosecution, the family of the accused had borrowed a sum of Rs.1,800/- from the deceased Senthil and when Senthil demanded the return of the amount, a wordy quarrel ensued, pursuant to which, it is alleged that the accused had attacked Senthil and caused his death.

7. On the side of the prosecution, fourteen witnesses (P.Ws.1 to 14) were examined and thirty two exhibits (Exs.P1 to 32) and ten material objects (M.Os.1 to 10) were marked. On the side of the defence, two witnesses (D.Ws.1 and 2) were examined and seven exhibits (Exs.D1 to D7) were



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8. The trial Court had found the petitioner “guilty” and convicted and sentenced him as above.

9. The learned counsel for the petitioner would submit that the co-accused in this case viz., Palaniammal @ Kannammal (A2), Ramya (A3), Darmaraj (A5) and Suthakar (A6), who were similarly placed, have been granted suspension of sentence and bail by this Court in Crl.M.P.Nos.14048 of 2021 and 4332 of 2022 in Crl.A.No.433 of 2021 on 08.04.2022. He would further submit that though eight independent witnesses have been examined, except Rajathi (P.W.1) and Indumathi (P.W.2), who are the mother and wife of the deceased, respectively, all the other witnesses have not supported the case of the prosecution. In fact, Ravi (P.W.3) and Selvam (P.W.4), who are said to be the eye-witnesses in this case, have also turned hostile. He would further submit that the place of occurrence is also doubtful and the petitioner has raised substantial grounds to prove that Rajathi (P.W.1) and Indumathi (P.W.2) could not have been present on the scene of occurrence. Further, he would submit that the witnesses (P.Ws.3 to 8), who are local panchayatars, have been examined to prove the motive, whereas, they have not supported the case of the prosecution. He would further submit that on the side of the



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examined to demonstrate that the deceased would have been killed by someone else and the accused were not involved in the offence at all and the case has been foisted on them. Moreover, the petitioner has no bad antecedent and he was on bail during trial.

10. The learned Additional Public Prosecutor would vehemently oppose this petition and submit that there are specific averments as against the petitioner for having inflicted injuries on the deceased. He would further submit that there are no previous cases against the petitioner.

11. The petitioner has raised substantial grounds in the appeal, which require detailed appraisal. Moreover, the petitioner has been in incarceration since 10.08.2021. 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.

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:



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- (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 III Additional District and Sessions Court, Erode at
Gobichettipalayam;
- (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; 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 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.

(S.V.N., J.) (A.D.J.C., J.)
05.07.2022

nsd

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To

- 1.The III Additional District and Sessions Judge,
Erode at Gobichettipalayam.
- 2.The Inspector of Police,
Kadathur Police Station,
Erode District.
- 3.The Superintendent of Prison,
Central Prison, Coimbatore.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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and
A.D.JAGADISH CHANDIRA, J.

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