



CrI.M.P.No.10714 of 20__
in CrI.A.No.103 of 2022

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**

CrI.M.P.No.10714 of 2022
in CrI.A.No.103 of 2022

Krishnaveni .. Petitioner/Accused

Vs.

State represented by
The Inspector of Police,
Erumapatty Police Station,
Namakkal. .. Respondent/Complainant

Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. to suspend the sentence imposed on the petitioner by judgment dated 15.11.2021 passed in S.C.No.98 of 2018 on the file of the Sessions Court (Fast Track Mahila Court), Namakkal and to enlarge the petitioner on bail pending disposal of the above appeal.

For petitioner : Mr.P.Ezhil Nilavan

For Respondent : Mr.R.Muniyapparaj
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 15.11.2021 passed in S.C.No.98 of 2018 on the file of the Sessions Court, (Fast Track Mahila Court), Namakkal and to enlarge the petitioner on bail pending disposal of the above appeal.

2. The petitioner, who was an accused in S.C.No.98 of 2018 before the Sessions Court, (Fast Track Mahila Court), Namakkal, was convicted and sentenced as follows on 15.11.2021:

<i>S.No.</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
1	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 CrI.A.No.103 of 2022 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. Heard Mr.P.Ezhil Nilavan, 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 Sivakumar (P.W.5) was in love with the deceased Ambika for about ten years and thereafter, got married to her. Later, due to misunderstanding, Sivakumar (P.W.5) had left Ambika in her natal home and visited her once in ten days. It is the further case of the prosecution that the petitioner, who was deserted by her husband, developed illicit intimacy with Sivakumar and they lived as husband and wife by running a hotel at Kaikatti in Erumapatty. Further, it is the case of the prosecution that fearing that Sivakumar would leave her, the petitioner with an intention to do away with Ambika, wife of Sivakumar, had administered sedatives (Trapex tablets) mixed with tea to Ambika and after Ambika lost her conscious, the petitioner is said to have strangled her with a dupatta (M.O.1) and murdered her on 04.09.2013 around 5.00 p.m.

6. On the complaint given by Amudha (P.W.1), mother of Ambika, the police registered a case in Crime No.193 of 2013 on 05.09.2013 under Section 174 Cr.P.C. and during the course of investigation, the petitioner surrendered before Dhayalan (P.W.6), Village Administrative Officer (V.A.O.) and gave an extrajudicial confession, based on which, the police recovered three materials objects viz., dupatta (M.O.1), tea stained stainless steel tumbler (M.O.2) and Trapex tablet strip without tablet (M.O.3).



7. After completing the investigation, the respondent/police has filed a final report against the petitioner for the offence under Section 302 IPC.

8. The trial Court, after considering the evidence on record and hearing either side, found “guilty” and convicted and sentenced the petitioner as above.

9. The learned counsel for the petitioner would submit that it is the case of circumstantial evidence and other than the extrajudicial confession that is said to have been given by the petitioner to Dhayalan (P.W.6), V.A.O., there is no other material to connect the petitioner with the crime. He would further submit that the alleged occurrence is said to have been taken place on 04.09.2013 at 5.00 p.m., complaint was given on 05.09.2013 and extrajudicial confession was recorded on 07.09.2013. Further, he would submit that strangely, Amudha (P.W.1) and Bharathi (P.W.3), mother and sister of Ambika, respectively, who are the star witnesses in this case, have stated that the petitioner was found in the police station on 05.09.2013 creating a grave doubt in respect of the extrajudicial confession and thereby, the trial Court had erred in convicting the petitioner. It is his further submission that the petitioner has raised valid grounds in the appeal and



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10. The learned Additional Public Prosecutor would submit that the petitioner had illicit intimacy with Sivakumar and she had committed the murder of his wife Ambika by administering sedatives (Trapex tablets) mixed with tea and strangled her with a dupatta (M.O.1). He would further submit that the police have recovered three material objects (M.Os.1 to 3) based on the extrajudicial confession of the petitioner and the prosecution has proved the case beyond any reasonable doubt by examining seventeen witnesses and marking seventeen exhibits and three 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 15.11.2021. 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 Sessions Court (Fast Track Mahila Court), Namakkal;
- (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, she shall appear on the next working day) 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;
- (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;



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- (v) 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.

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

nsd

To

- 1.The Sessions Judge,
(Fast Track Mahila Court),
Namakkal.
- 2.The Inspector of Police,
Erumapatty Police Station,
Namakkal.
- 3.The Superintendent of Prison,
Special Prison for Women,
Coimbatore.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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