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Crl.M.P.No.10987 of 2022  
in Crl.A.No.655 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 07.09.2022

PRONOUNCED ON : .....2022

CORAM

THE HONOURABLE MR. JUSTICE **P.N.PRAKASH**  
AND  
THE HONOURABLE MR. JUSTICE **RMT.TEEKAA RAMAN**

Crl.M.P.No.10987 of 2022  
in Crl.A.No.655 of 2021

1.Koteeswaran

2.Krishnamoorthy

..Petitioners/AA 1 and 3

Vs.

State represented by  
The Deputy Superintendent of Police,  
Pollur Sub-Division,  
Tiruvannamalai District.  
(Crime No.2728/2020)

.. Respondent/Complainant

Criminal Miscellaneous Petition filed under Sections 389 Cr.P.C. to suspend the sentence imposed on the petitioners by judgment and order dated 12.10.2021 passed in Spl.S.C.No.09 of 2021 on the file of the Special Court for the Exclusive Trial of Cases under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Tiruvannamalai and to enlarge the petitioners on bail pending disposal of the appeal.



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For Petitioners : Mr.V.Parthiban  
for Mr.E.Sathiyaraj

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

## **ORDER**

**P.N.PRAKASH, J.**

This criminal miscellaneous petition has been preferred seeking to suspend the sentence imposed on the petitioners by judgment and order dated 12.10.2021 passed in Spl.S.C.No.09 of 2021 on the file of the Special Court for the Exclusive Trial of Cases under the 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 appeal.

2. The petitioners, who were the first and third accused in Spl.S.C.No.09 of 2021 before the Special Court for the Exclusive Trial of Cases under the the SC/ST Act, Tiruvannamalai, were convicted and sentenced as follows on 12.10.2021:



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| <i><b>Accused</b></i>                                     | <i><b>Provision under which convicted</b></i> | <i><b>Sentence</b></i>                                                                                                |
|-----------------------------------------------------------|-----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|
| Koteeswaran (A1)                                          | Section 302 IPC, each                         | Life imprisonment and fine of Rs.25,000/-, in default to undergo two months simple imprisonment, each.                |
| Krishnamoorthy (A2)                                       | Section 201 IPC, each                         | Seven years rigorous imprisonment and fine of Rs.5,000/-, in default to undergo two months simple imprisonment, each. |
| The aforesaid sentences were ordered to run concurrently. |                                               |                                                                                                                       |

3. Challenging the above conviction and sentences, the petitioners has filed Crl.A.No.655 of 2021 along with the instant criminal miscellaneous petition seeking suspension of sentence and bail.

4. Heard Mr.V.Parthiban, learned counsel representing Mr.E.Sathiyaraj, learned counsel on record for the petitioners and Mr.M.Babu Muthumeeran, learned Additional Public Prosecutor appearing for the respondent/State.

5. It is the case of the prosecution that the deceased Elumalai and the petitioners were close friends; the petitioners were in enjoyment of certain lands classified as “Panchamatharisu” and there was a difference of opinion between the petitioners and Elumalai in enjoyment of the said land, due to which, it is alleged that the petitioners strangled Elumalai with a towel



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(M.O.2) and murdered him.

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6. The prosecution case rests on circumstantial evidence, mainly, the evidence of Sethu (P.W.3), who is a close relative of Elumalai. Initially, the police registered a case under Section 174 Cr.P.C. after seeing the dead body of Elumalai near a bush and on suspicion, the police arrested the petitioners and implicated them in the offence based on the recovery of towel (M.O.2) and stick (M.O.3).

7. Sethu (P.W.3), who is said to have seen Elumalai and the petitioners together, did not state anything to the police at the time when the body of Elumalai was recovered from the bush. That apart, the case was altered to one under Section 302 IPC only after the arrest of the petitioners.

8. The petitioners have raised substantial grounds in the appeal, which require detailed appraisal. Moreover, the petitioners have been in incarceration since 12.10.2021. Hence, this Court is of the view that the petitioners are entitled to the relief of suspension of sentence and bail.

9. Accordingly, this criminal miscellaneous petition stands allowed



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and the relief of suspension of sentence and bail is granted to the petitioners

on the following conditions:

- (i) The petitioners shall execute a bond for a sum of Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Special Court for the Exclusive Trial of Cases under the the SC/ST Act, Tiruvannamalai;
- (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 petitioners 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 they are not able to appear before the trial Court on any day, they 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 their absence, as directed by the trial Court.

[P.N.P., J] [T.K.R., J]  
.....2022

nsd  
To

1. The Special Court for the Exclusive Trial  
of Cases under the the SC/ST Act, Tiruvannamalai.
2. The Superintendent of Prison,  
Central Prison, Vellore.
3. The Deputy Superintendent of Police,  
Pollur Sub-Division, Tiruvannamalai District.
4. The Public Prosecutor,  
Madras High Court, Chennai – 600 104.



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