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Crl.M.P.No.12819 of 2022 in Crl.A.No.511 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.09.2022

PRONOUNCED ON : 27.09.2022

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

Crl.M.P.No.12819 of 2022 in Crl.A.No.511 of 2021

P.Sekar

.. Petitioner/A1

Vs.

State rep. by
The Inspector of Police
Kangayam Police Station
Kangayam
(Cr. No.49/2016)

.. Respondent/Complainant

Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. to suspend the sentence and enlarge the petitioner on bail who is undergoing conviction in S.C.No.194 of 2016 dated 31.08.2021 pending disposal of the appeal.

For Petitioner : Mr.V.Balamurugane

For Respondent : Mr.R.Muniyapparaj
Additional Public Prosecutor



ORDER

P.N.PRAKASH, J.

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The petitioner (A1) along with one Radhamani (A2) faced a prosecution in S.C.No.194 of 2016, in which, they were convicted and sentenced on 31.08.2021 by the Additional District and Sessions Judge No.III, Dharapuram as under :

<i>Name of the Accused</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
P.Sekar (A1)	Section 120-B IPC	Imprisonment for life and fine of Rs.5,000/-, in default to undergo rigorous imprisonment for one year
	Section 302 IPC	Imprisonment for life and fine of Rs.5,000/-, in default to undergo rigorous imprisonment for one year
Radhamani (A2)	Section 120-B IPC	Imprisonment for life and fine of Rs.5,000/-, in default to undergo rigorous imprisonment for one year
The aforesaid sentences were ordered to run concurrently.		

Challenging the above conviction and sentences, the petitioner (A1) has filed Crl.A.No.511 of 2021 along with the instant miscellaneous petition seeking suspension of sentence and bail.

2. It appears that Radhamani (A2) was granted suspension of sentence and bail by this Court on 05.07.2022 in Crl.M.P.No.7738 of 2022.



3. It is the case of the prosecution that the deceased *viz.*, Manoharan is the husband of Radhamani (A2) and it is alleged that Radhamani (A2) was having illicit intimacy with the petitioner (A1) and thereafter, they conspired to get rid of Manoharan.

4. The learned counsel for the petitioner pointed out that the only incriminating evidence against the petitioner is that a rod (M.O.1), which was allegedly recovered from the petrol tank of petitioner's motorcycle and apart from that, there is absolutely no material to sustain the conviction.

5. There *prima facie* appears to be some force in the aforesaid submission of the learned counsel for the petitioner.

6. The petitioner (A1) has raised substantial grounds in the appeal, which require detailed appraisal. Moreover, the petitioner (A1) has been in incarceration from 31.08.2021 and the co-accused *viz.*, Radhamani (A2) has been enlarged on bail. 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.



7. Accordingly, this criminal miscellaneous petition stands allowed and the relief of suspension of sentence and bail is granted to the petitioner (A1) on the following conditions:

- (i) The petitioner 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 Additional District and Sessions Court No.III, Dharapuram ;
- (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 Aadhaar card or Bank pass book and mobile number 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, 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 his absence, as directed by the trial Court.

[P.N.P., J.] [TKR,J.]

27.09.2022

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To
1.The Additional District and Sessions Judge No.III
Dharapuram

2.The Inspector of Police
Kangeyam Police Station
Kangeyam

3.The Superintendent
Central Prison
Coimbatore

4.The Public Prosecutor
High Court
Madras



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AND
RMT.TEEKAA RAMAN, J.

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