



Crl.M.P.No.16342 of 2022
in Crl.A.No.598 of 2019

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P.N.PRAKASH, J.

and

RMT.TEEKAA RAMAN, J.

(Made by *P.N.PRAKASH, J.*)

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by judgment dated 28.03.2019 in S.C.No.63 of 2013 on the file of the Additional District and Sessions Court No.IV, Coimbatore and to enlarge the petitioner on bail pending disposal of this criminal appeal.

2. This is the second petition seeking suspension of sentence and bail and the first bail petition in Crl.M.P.No.13009 of 2019 in Crl.A.No.598 of 2019 was dismissed by this Court on 29.01.2021.

3. In this case, the petitioner is said to have set fire to this wife Mayil and caused her death. Mayil had given a dying declaration, which has been recorded by Judicial Magistrate No.V (PW13) and the same has been marked as Ex-P18.



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4. At this juncture, pertinent it is to point out that the Supreme Court, in **Sidhartha Vashisht @ Manu Sharma vs. State (NCT of Delhi)**², has considered **Kashmira Singh v. State of Punjab**³ and has held as follows:

“30.In the above cases, it has been observed that once a person has been convicted, normally, an appellate court will proceed on the basis that such person is guilty. It is no doubt true that even thereafter, it is open to the appellate court to suspend the sentence in a given case by recording reasons. But it is well settled, as observed in *Vijay Kumar [(2002) 9 SCC 364 : 2003 SCC (Cri) 1195 : JT 2002 Supp (1) SC 60]* that in considering the prayer for bail in a case involving a serious offence like murder punishable under Section 302 IPC, the Court should consider all the relevant factors like the nature of accusation made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the desirability of releasing the accused on bail after he has been convicted for committing serious offence of murder, etc. It has also been observed in some of the cases that normal practice in such cases is not to suspend the sentence and it is only in exceptional cases that the benefit of suspension of sentence can be granted.”

5. In view of the above reasoning and taking into consideration the

2 (2008) 5 SCC 230

3 1977 SCC (Cri) 559



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serious nature of allegations against the petitioner, we of the view that this is not a fit case to grant suspension of sentence and bail to the petitioner.

Accordingly, this criminal miscellaneous petition stands dismissed. However, the Registry is directed to prepare the typed set of papers immediately and post the main appeal for final hearing on 18.11.2022.

(P.N.P.,J.) (T K R J)
03.11.2022

nsd

To

1.The Additional District and Sessions Judge No.IV,
Coimbatore.

2.The Superintendent of Prison,
Central Prison, Coimbatore.

3.The Inspector of Police,
B-14, Kuniamuthur Police Station, Coimbatore.

4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.

P.N.PRAKASH,J.



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