



Crl.M.P.No.16062 of 2022
in Crl.A.No.128 of 2021

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P.N.PRAKASH, J.

and

RMT.TEEKAA RAMAN, J.

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

The petitioner, who was an accused in S.C.No.108 of 2017 before the IV Additional District and Sessions Court, Erode District, was convicted and sentenced as follows on 04.01.2019:

<i>Provision under which convicted</i>	<i>Sentence</i>
Section 302 IPC	Life imprisonment.
Section 307 IPC	Ten years rigorous imprisonment.
Section 506(II) IPC	Seven years rigorous imprisonment.
The aforesaid sentences were ordered to run concurrently.	

2. Challenging the above conviction and sentence, the petitioner has filed Crl.A.No.128 of 2021 along with the instant criminal miscellaneous petition seeking suspension of sentence and bail, pending disposal of the above appeal.

3. It is the case of the prosecution that on account of a family



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dispute, the petitioner is said to have stabbed his father-in-law Palanisamy using a knife (soorikathi), which proved to be fatal. That apart, the petitioner is also said to have stabbed Moorthy, de facto complainant, who is the brother-in-law of the petitioner, on account of which, Moorthy was admitted in Erode Medical Centre for ten days as an in-patient.

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

2 (2008) 5 SCC 230

3 1977 SCC (Cri) 559



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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 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. Since typed set of papers is ready, the Registry is directed to post the main appeal for final disposal on 16.11.2022.

(P.N.P.,J.) (T K R J)
09.11.2022

nsd

P.N.PRAKASH,J.



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and
RMT.TEEKAA RAMAN,J.
nsd

To

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

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