



Crl.M.P.No.15033 of 2022
in Crl.A.No.56 of 2020

Crl.M.P.No.15033 of 2022
in Crl.A.No.56 of 2020

P.N.PRAKASH, J.

and

RMT.TEEKAA RAMAN, J.

ORDER

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

This criminal miscellaneous petition has been filed seeking a direction to suspend the sentence imposed on the petitioner by judgment and order dated 24.09.2019 passed in S.C.No.107 of 2018 on the file of the Principal Sessions Court, Namakkal and to enlarge the petitioner on bail, pending disposal of the above appeal.

2. The petitioner faced a prosecution in S.C.No.107 of 2018 before the Principal Sessions Court, Namakkal, in which, by judgment and order dated 24.09.2019, he was convicted and sentenced as follows:

<i>Provision under which convicted</i>	<i>Sentence</i>
Section 302 IPC	Life imprisonment and fine of Rs.5,000/-, in default to undergo four years simple imprisonment.



Crl.M.P.No.15033 of 2022
in Crl.A.No.56 of 2020

<i>Provision under which convicted</i>	<i>Sentence</i>
Section 302 r/w 34 IPC	Life imprisonment and fine of Rs.5,000/-, in default to undergo four years simple imprisonment.
Section 449 IPC	Ten years rigorous imprisonment and fine of Rs.5,000/-, in default to undergo two years and six months simple imprisonment.
Section 457 IPC	Five years rigorous imprisonment and fine of Rs.5,000/-, in default to undergo one year and three months simple imprisonment.
Section 392 r/w 397 IPC	Ten years rigorous imprisonment and fine of Rs.5,000/-, in default to undergo two years and six months simple imprisonment.
The aforesaid sentences were ordered to run concurrently.	

3. Challenging the aforesaid conviction and sentences, the petitioner has filed Crl.A.No.56 of 2020 with the instant criminal miscellaneous petition seeking suspension of sentence and bail.

4. Heard Mr.B.Mohan, learned counsel for the petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing for the respondent/State.



Crl.M.P.No.15033 of 2022
in Crl.A.No.56 of 2020

5. This is the second petition seeking suspension of sentence and bail and the earlier bail petition in Crl.M.P.No.1046 of 2020 was dismissed by this Court by a detailed order dated 11.02.2021.

6. It is the case of double murder, in which, two persons have died and the murder was for gain.

7. At this juncture, pertinent it is to point out that the Supreme Court, in **Sidhartha Vashisht @ Manu Sharma vs. State (NCT of Delhi)**¹, has considered **Kashmira Singh v. State of Punjab**² 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

1 (2008) 5 SCC 230

2 1977 SCC (Cri) 559



WEB COPY



Crl.M.P.No.15033 of 2022
in Crl.A.No.56 of 2020

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.”

In view of the above reasoning and taking into consideration the grave nature of the offence, we are of the opinion that this is not a fit case to grant suspension of sentence and bail to the petitioner and accordingly, this criminal miscellaneous petition stands dismissed.

(P.N.P.,J.) (T.K.R.,J.)
11.10.2022

nsd



WEB COPY



Crl.M.P.No.15033 of 2022
in Crl.A.No.56 of 2020

To

- 1.The Principal Sessions Judge,
Namakkal .
- 2.The Superintendent of Prison,
Central Prison,
Coimbatore.
- 3.The Deputy Superintendent of Police,
Tiruchengode Sub-Division,
Tiruchengode Rural Police Station.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



WEB COPY



Crl.M.P.No.15033 of 2022
in Crl.A.No.56 of 2020

P.N.PRAKASH, J.
and
RMT.TEEKAA RAMAN, J.

nsd

Crl.M.P.No.15033 of 2022
in Crl.A.No.56 of 2020

12.10.2022