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Crl.M.P.No.16444 of 2022
in Crl.A.No.332 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2022

Coram

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE RMT. TEEKAA RAMAN

Crl.M.P.No.16444 of 2022
in
Crl.A.No.332 of 2022

Sathish Kumar
S/o.Nadarajan

... Petitioner

Vs.

The State represented by
The Inspector of Police,
E-1 Singanallur Police Station,
Coimbatore, Coimbatore District.
Crime No.1678/2019

... Respondent

Criminal Miscellaneous Petition filed u/s.389(1) of the Code of Criminal Procedure praying to suspend the sentence passed in S.C.No.1/2021 dated 10.03.2022 on the file of the learned I Additional District and Sessions Judge, Coimbatore and enlarge the petitioner on bail pending disposal of the criminal appeal before this Court.

For Petitioner : Mr.B.M.Subash



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For Respondent : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

[Made by **P.N.PRAKASH, J.**]

This criminal miscellaneous petition has been preferred seeking to suspend the sentence imposed on the petitioner by judgment and order dated 10.03.2022 passed in S.C.No.1/2021 on the file of the learned I Additional District and Sessions Judge, Coimbatore and to enlarge the petitioner on bail pending disposal of the appeal.

2. The petitioner [A1] in S.C.No.1/2021 before the learned I Additional District and Sessions Judge, Coimbatore, was convicted and sentenced as follows on 10.03.2022:

<i>Sl.No.</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
1.	Section 302 IPC	Life imprisonment and fine of Rs.1,000/-, in default to undergo 3 months simple imprisonment.
2.	Section 449 IPC	10 years rigorous imprisonment and fine of Rs.1,000/-, in default, to undergo 3 months simple imprisonment.
3.	Section 201 IPC	3 years rigorous imprisonment and fine of



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<i>Sl.No.</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
		Rs.1,000/-, in default to undergo 3 months simple imprisonment.

The aforesaid sentences were ordered to run concurrently.

3. Challenging the above conviction and sentences, the petitioner[A1] has filed Crl.A.No.332 of 2022 along with the instant criminal miscellaneous petition seeking suspension of sentence and bail.

4. Heard Mr.B.M.Subash, learned counsel for the petitioner [A1] and Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing for the respondent/State.

5. It is the case of the prosecution that accused 1 and 2 were working in the factory of the deceased; the deceased had borrowed some money from petitioner [A1]; since the deceased was not returning the money, petitioner [A1] and A2 brought liquor, gave it to the deceased to drink and after all the three drank, the accused smothered the deceased to death with a pillow in



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the afternoon of 19.11.2019.

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6. Mr.R.Muniyapparaj, learned Additional Public Prosecutor, strongly objected the present petition.

7. The case is based on circumstantial evidence. Initially, the police registered a case u/s.174 Cr.P.C. and later, based on the extra judicial confession of petitioner [A1] to the Village Administrative Officer, the case was altered to one u/s.302 IPC. It is seen that the extra judicial confession was given on 23.11.2019. PW-2, in his evidence, has stated that the accused were in the custody of the police from the date of registration of the First Information Report itself i.e. from 19.11.2019. That apart, PW-2, in his evidence, has stated that the appellant had accompanied him to three hospitals where the deceased was taken for treatment on 19.11.2019. The viscera report does not say any trace of alcohol in the visceral organs of the deceased. In such view of the matter, this is a fit case to grant suspension of sentence and bail to the petitioner[A1].

8. Accordingly, the relief of suspension of sentence and bail is granted



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to the petitioner [A1] on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/- [Rupees Twenty Five Thousand only], with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the trial Court;
- (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 to ensure their identity; and
- (iii) The petitioner shall appear before the trial Court everyday at 10.30 a.m. for a period of four weeks and thereafter, 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, he 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.PRAKASH, J.



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and
RMT. TEEKAA RAMAN, J.

gm

Accordingly, this Criminal Miscellaneous Petition is disposed of.

[PNP, J.] [TKR, J.]
01.12.2022

Index: Yes/No
gm

To

- 1.The I Additional District and Sessions Judge,
Coimbatore.
- 2.The Inspector of Police,
E-1 Singanallur Police Station,
Coimbatore, Coimbatore District.
- 3.The Public Prosecutor,
High Court, Madras.

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