



Crl.M.P.No.16483 of 2022
in Crl.A.No.194 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 by the petitioner seeking a direction to suspend the sentence imposed on him by judgment dated 05.03.2019 passed in S.C.No.78 of 2013 on the file of the Principal District and Sessions Court, Tiruvannamalai District and to enlarge him on bail pending disposal of this criminal appeal.

2. The petitioner, who was the first accused in S.C.No.78 of 2013 before the Principal District and Sessions Court, Tiruvannamalai District, was convicted for the offence under Section 302 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.5,000/-, in default to undergo two years rigorous imprisonment.

3. Challenging the above conviction and sentence, the petitioner has filed Crl.A.No.194 of 2019 along with the instant criminal miscellaneous



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petition seeking suspension of sentence and bail, pending disposal of the above appeal.

4. It is the case of the prosecution that the petitioner along with Soundarrajan (A2) were dancing in a bridegroom procession, which was objected to by the deceased Gandhi and therefore, the accused planned to eliminate Gandhi, pursuant to which, Gandhi was stabbed to death. Though Soundarrajan (A2) has been granted suspension of sentence and bail, we find that petitioner herein had actually stabbed Gandhi causing his death.

5. 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

² (2008) 5 SCC 230

³ 1977 SCC (Cri) 559



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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.”

6. 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. However, the Registry is directed to prepare the typed set of papers immediately and post the main appeal for final hearing on 23.11.2022.

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

nsd

P.N.PRAKASH,J.
and



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RMT.TEEKAA RAMAN,J.
nsd

To

1.The Principal District and Sessions Judge,
Tiruvannamalai District

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

3.The Inspector of Police,
Thanipadi Police Station,
Thanipadi, Tiruvannamalai District.

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

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03.11.2022