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Crl.M.P.No.17803 of 2022
in Crl.A.No.244 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2022

CORAM :

**THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND**

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.M.P.No.17803 of 2022
in Crl.A.No.244 of 2022

Mohaboob Basha

... Petitioner

Vs.

State by;
The Inspector of Police
Rathinagiri Police Station
Vellore District.
(Crime No.200/2015)

... Respondent

Prayer : Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C., to suspend the sentence imposed on the petitioner by the judgment dated 15.12.2021 in S.C.No.158 of 2016, by the learned II Additional District and Sessions Judge, Vellore District @ Ranipettai and enlarge the petitioner on bail pending disposal in C.A.No.244 of 2022.

For Petitioner : Mr.G.Vinodhkumar

For Respondent : Mr.R.Muniyapparaj
Additional Public Prosecutor



Crl.M.P.No.17803 of 2022
in Crl.A.No.244 of 2022

ORDER

N. ANAND VENKATESH, J.

This petition has been filed by the petitioner seeking for the suspension of sentence imposed in S.C.No.158 of 2016, by the learned II Additional District and Sessions Judge, Vellore District @ Ranipettai through judgment dated 15.12.2021 and to enlarge the petitioner on bail pending disposal in C.A.No.244 of 2022.

2. The petitioner was convicted under Section 302 of IPC and was sentenced to undergo Life Imprisonment and to pay a fine of Rs.10,000/- and in default, to undergo 6 months Simple Imprisonment.

3. The case of the prosecution is that on 17.06.2015, the deceased, PW-1 and the petitioner went to Nanthiyalam to consume liquor and they started consuming liquor at about 4.30 p.m, on that day. The petitioner is said to have asked the deceased to procure more liquor and the deceased informed the petitioner that he does not have the money. Enraged by the same, the petitioner is said to have stabbed the deceased with a knife on the right and left side of the forehead and also in his stomach and buttocks. Thereafter, the petitioner ran away from the scene of occurrence and the parents of the deceased (PW-2 and



Crl.M.P.No.17803 of 2022
in Crl.A.No.244 of 2022

WEB COPY

PW-3) rushed the deceased to Walajah Government Hospital for treatment. PW-7 Doctor gave first aid to the deceased and he referred for further treatment to Government Hospital, Vellore. The deceased was declared brought dead at Government Hospital, Vellore by PW-9 on 17.06.2015 at 6.45 pm.

4. Heard Mr.G.Vinodhkumar, learned counsel for the petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor for the respondent.

5. The main contention that was raised by the learned counsel for the petitioner is that the very presence of PW-1 in the scene of crime is doubtful. To substantiate the same, the learned counsel pointed out certain contradictions in the evidence of PW1. It was further contended that there was exorbitant delay of 9 hours in giving the complaint and there was absolutely no explanation for the delay. Therefore, it was submitted that there was deliberation and the petitioner has been fixed as an accused person.

6. Taking into consideration the facts and circumstances of the case and also of the fact that the petitioner has already suffered incarceration for a period of nearly 1 year and paid the fine amount also, we are inclined to suspend the



Crl.M.P.No.17803 of 2022
in Crl.A.No.244 of 2022

sentence imposed by the Court below in S.C.No.158 of 2016 dated 15.12.2021

subject to the following conditions:-

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned II Additional District and Sessions Judge, Vellore District @ Ranipettai ;
- (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 cards or Bank passbooks to ensure their identity; and
- (iii) The petitioner shall appear before the respondent police every Monday at 10.30 a.m., for a period of eight weeks. After completion of the said period, the petitioners shall report before the learned learned II Additional District and Sessions Judge, Vellore District @ Ranipettai, 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.P.,J.) (N.A.V.,J.)
16.12.2022

Internet : Yes/No
Index : Yes/No
Speaking order /Non-Speaking order
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Crl.M.P.No.17803 of 2022
in Crl.A.No.244 of 2022

To

1. II Additional District and Sessions Judge,
Vellore District @ Ranipettai.
- 2.The Superintendent of Prison,
Central Prison, Vellore.
- 3.The Inspector of Police
Rathinagiri Police Station
Vellore District.
- 4.The Public Prosecutor
High Court of Madras.



WEB COPY



Crl.M.P.No.17803 of 2022
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P.N.PRAKASH,J.

and

N. ANAND VENKATESH,J.

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Crl.M.P.No.17803 of 2022
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16.12.2022