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Crl.M.P(MD).No.8936 of 2022
in Crl.A(MD).No.475 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2022

PRESENT

THE HONOURABLE MR. JUSTICE **P.N.PRAKASH**
AND
THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

Crl.M.P.No.8936 of 2022
in Crl.A.No.475 of 2022

T.Muthuraja

.. Appellant/
Accused No.2

Vs.

State represented by
The Inspector of Police,
Saptur Police Station,
Madurai District.
In Crime No.78/2013.

.. Respondent/Complainant

Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C.,
to suspend the sentence imposed on the petitioner by judgment and order
dated 30.12.2021 passed in S.C.No.113 of 2016 on the file of the Additional
District and Sessions Court, Mahila Court, Madurai and enlarge the
petitioner/Accused No.2 on bail, pending disposal of the criminal appeal.

For Petitioner : Mr.M.Chandra Sekaran

For Respondent : Mr.S.Ravi
Addl. Public Prosecutor



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ORDER

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

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by judgment and order dated 30.12.2021 passed in S.C.No.113 of 2016 on the file of the Additional District and Sessions Court (Mahila Court), Madurai and to enlarge the petitioner on bail pending disposal of the appeal.

2. T.Muthuraja, the petitioner herein and the second appellant in Crl A(MD) No.475 of 2022 faced a prosecution in S.C.No.113 of 2016 before the Additional District and Sessions Court (Mahila Court), Madurai, was convicted and sentenced as follows on 30.12.2021:

<i>S.No.</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
1	Sections 376, 302, 201 r/w 302 IPC	To undergo imprisonment for Life and to pay fine of Rs.50,000/- (Rupees Fifty Thousand only), in default three years Simple imprisonment.

3. Challenging the above conviction and sentence, the petitioner has filed Crl.A.No.475 of 2021 along with the instant miscellaneous petition seeking suspension of sentence and bail.



4. Heard Mr.M.Chandrasekaran, learned counsel for the petitioner and Mr.S.Ravi, learned Additional Public Prosecutor appearing for the respondent/State.

5. The deceased in this case was a forty year old lady. Her family members were searching her on 13.05.2013 in the farm, where she would normally go for work, but did not find her. However, her body was found floating in the well in the farm around 05.00 a.m. on 14.05.2013. In connection with this, a case was registered and after investigation, three accused, including the petitioner, were prosecuted for the offences under Sections 376, 302 and 201 r/w 302 IPC. The trial Court acquitted Chinnasamy @ Anwarraja (A3) of all the charges, but, convicted and sentenced only Muthuraj (A1) and Muthuraja (A2), of whom, the latter is the petitioner herein.

6. The prosecution case rests on the solitary evidence of Boopathi (P.W.3), who is said to have witnessed the occurrence on the night of 13.05.2013. However, Boopathi (P.W.3) in her examination-in-chief, has stated that after she saw the occurrence, she has not revealed it to anybody for a week fearing reprisal by the accused, who wanted to divulge it only after the accused was caught by the police and therefore, she divulged the



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same to the police only on 21.06.2013, after which, her statement under Section 164 of the Code of Criminal Procedure was recorded by the learned Judicial Magistrate, Usilampatti, whereas, the appellant herein was arrested by the police on 21.05.2013 itself.

7. Mr.S.Ravi, learned Additional Public Prosecutor, submitted that the appellant was arrested by the police not based on the information of Boopathi (P.W.3), but, on the information provided by Rajesh (P.W.4).

8. Learned counsel for the appellant submitted that Rajesh (P.W.4), in his evidence, has stated that he has seen the accused with a knife while they were searching for her body on the night of 13.05.2013, whereas, the name of the appellant does not figure in any of the records and he was arrested on suspicion only on 20.05.2013. Further, the petitioner has been in incarceration since the date of conviction, viz., 30.12.2021. That apart, he has raised substantial grounds in the appeal, which can be gone into in detail only at the time of final hearing.

9. Accordingly, this criminal miscellaneous petition stands allowed and the sentence of imprisonment is suspended and bail is granted to the petitioner on the following conditions:



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- (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 Additional District and Sessions Court (Mahila Court), Madurai;
- (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 and mobile number to ensure their identity; and
- (iii) The petitioner shall appear before the respondent/police everyday at 10.30 a.m. for a period of four weeks and thereafter, he 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.P.,J.) (R.H.,J.)
01.09.2022

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To

- 1.The Additional District and Sessions Judge (Mahila Court),
Madurai District.
- 2.The Superintendent of Prison,
Central Prison, Madurai.
- 3.The Inspector of Police,
Saptur Police Station,
Madurai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.N.PRAKASH, J.
and
R.HEMALATHA, J.
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