



Crl.M.P.No.569 of 2023
in Crl.A.No.873 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE **S.S. SUNDAR**
AND
THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

Crl.M.P.No.569 of 2023
in
Crl.A.No.873 of 2022

1.Ramesh
2.Vijayakumar
3.Ravikumar

... Petitioners

Vs.

State rep. By
Inspector of Police,
Mallur Police Station,
Salem District.

... Respondent

Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C.
to suspend the sentence imposed by the learned I Additional District
and Sessions Judge, Salem by judgment dated 12.07.2022 in S.C.
No.49 of 2021.

For Petitioners : Mr.L.Mouli

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor



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CrI.M.P.No.569 of 2023
in CrI.A.No.873 of 2022

ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed by the I Additional District and Sessions Judge, Salem in S.C. No.49 of 2021 dated 12.07.2022, and enlarge the petitioners on bail pending disposal of the above Criminal Appeal.

2. The learned I Additional District and Sessions Judge, Salem, in S.C.No.49 of 2021, has convicted and sentenced the petitioners/A1 to A3 as follows :

<i>Accused No.</i>	<i>Offence for which Convicted</i>	<i>Sentence</i>
A1	148 IPC	Rigorous imprisonment for one year and to pay a fine of Rs.1,000/-, in default to undergo three months simple imprisonment
	341 IPC	Fine of Rs.500/- in default to undergo one week simple imprisonment
	302 r/w 149 IPC	Life imprisonment and to pay a fine of Rs.5,000/- in default to undergo one year simple imprisonment
A2	148 IPC	Rigorous imprisonment for one year and to pay a fine of Rs.1,000/- in default to undergo three months simple imprisonment
	341 IPC	Fine of Rs.500/- in default to undergo one week simple imprisonment



Crl.M.P.No.569 of 2023
in Crl.A.No.873 of 2022

Accused No.	Offence for which Convicted	Sentence
	302 r/w 149 IPC	Life imprisonment and to pay a fine of Rs.5,000/- in default to undergo one year simple imprisonment
A3	147 IPC	Rigorous imprisonment for six months and to pay a fine of Rs.1,000/- in default to undergo six months simple imprisonment
	341 IPC	Fine of Rs.500/- and in default to undergo one week simple imprisonment
	302 r/w 149 IPC	Life imprisonment and to pay a fine of Rs.5,000/- in default to undergo one year simple imprisonment
	Sentences were ordered to run concurrently	

3. Challenging the above conviction and sentence, the petitioners, who are arrayed as A1, A2 and A3, have filed the above Criminal Appeal and they are seeking suspension of sentence and bail in the present miscellaneous petition.

4. The case of the prosecution is that the cousin brother of the deceased had love affair with one Aruna and on 14.02.2020, the two accused also sent love proposal to Aruna through a message, due to which, there was some dispute and enmity between A1 & A2 and the deceased. It is the further case of the prosecution that A1, A2 and A4 along with their friends and one juvenile assaulted the deceased on 28.02.2020 at about 11.15 p.m. and the deceased died after



CrI.M.P.No.569 of 2023
in CrI.A.No.873 of 2022

sustaining grievous injuries.

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5. Though few witnesses to the incident were examined, it appears that the witnesses who have been examined as eye witnesses viz., P.Ws.2 and 3 turned hostile. It is also seen that the three witnesses viz., P.Ws.6 to 8 also turned hostile even though they are the only persons who are examined to prove the motive. Having regard to the said reasons, this Court finds that there is a prima facie case in favour of the petitioners and the Trial Court has not appreciated several circumstances. Therefore, considering the period of incarceration, this Court is inclined to suspend the sentence.

6. Accordingly, this Criminal Miscellaneous Petition stands **allowed** and the sentence of imprisonment imposed on the petitioners/A1 to A3 is **suspended** and they are granted bail on the following conditions:

- (i) Petitioners shall execute a bond for a sum of Rs.25,000/-, each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned I Additional District and Sessions Judge, Salem.
- (ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy



CrI.M.P.No.569 of 2023
in CrI.A.No.873 of 2022

WEB COPY

of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity; and

(iii)The petitioners 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 they are not able to appear before the trial Court on any day, they 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 their absence, as directed by the trial Court.

(S.S.S.R., J.) (S.M., J.)
12.10.2023

Index : Yes / No
Neutral Citation: Yes/No
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To

- 1.The I Additional District and Sessions Judge,
Salem.
- 2.The Inspector of Police,
Mallur Police Station,
Salem District.
- 3.The Superintendent,
Central Prison, Coimbatore.

Page 5 of 7



CrI.M.P.No.569 of 2023
in CrI.A.No.873 of 2022

WEB COPY

4.The Superintendent,
Central Prison, Salem.
*(A1 is now lodged at Central Prison,
Salem.)*

5.The Public Prosecutor,
High Court, Madras.

S.S. SUNDAR, J.
and



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Crl.M.P.No.569 of 2023
in Crl.A.No.873 of 2022

SUNDER MOHAN, J.

mmi

**Crl.M.P.No.569 of 2023
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