



Crl.M.P.No.2805 of 2023 in Crl.A.No.439 of 2021

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.2805 of 2023
in Crl.A.No.439 of 2021

Kumar
S/o Balasubramanian .. Petitioner

-vs-

State represented by
Inspector of Police
Taluk Police Station
Villupuram
Villupuram District
(Crime No.729 of 2016) .. Respondent

Criminal Miscellaneous Petition filed under Section 389(1) of the Code of Criminal Procedure to suspend the sentence imposed in S.C.No.123 of 2017 on the file of the learned Principal Sessions Judge, Villupuram and enlarge the petitioner on bail, pending disposal of the appeal.

For Petitioner :: Mr.R.Sankarasubbu
For Respondent :: Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER



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

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The petitioner/appellant, who is Accused No.3, has filed the appeal challenging the conviction and sentence imposed by the learned Principal Sessions Judge, Villupuram in S.C.No.123 of 2017 for the offence under Section 120(B) and Section 302 readwith 120(B) of IPC and to undergo life imprisonment and also to pay a fine of Rs.50,000/-, in default to undergo simple imprisonment for 3 ½ years. Pending the appeal, he has filed the present miscellaneous petition seeking to suspend the sentence and enlarge him on bail.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and also perused the materials available on record.

3. The case of the prosecution is that on 07.10.2016, when the deceased Ayyanar along with P.W.2 and P.W.7 were travelling in a motorcycle from Ariyalur to Kuchipalayam, at about 07.45 p.m., due to previous enmity, 10 persons hiding from the sugarcane field came and obstructed the vehicle in which the deceased was travelling and pushed down the vehicle.



The allegation against the petitioner/A3 is that he along with Accused Nos.4, 5 & 6 caught hold of the hands and legs of the deceased and at that time, the 2nd accused stabbed on the left side chest of the deceased. When a similar bail petition was moved by the 6th accused, this Court, taking note of the overall circumstances, held that the whole incident appears to have arisen out of a dispute between the family of victim as well as the villagers. Except the injury caused by the 1st accused, no other injury is spoken to on the side of the prosecution. Considering the same, the bail application filed by the 6th accused was allowed. Since the allegation against the petitioner/A3 in the present case is similar to the allegation against A6, this Court is inclined to suspend the sentence imposed on the petitioner.

4. Accordingly, this criminal miscellaneous petition stands allowed and the substantive sentence of imprisonment imposed on the petitioner/A3 is suspended and he is granted bail 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 likesum, to the satisfaction of the learned Judicial Magistrate No.1, Villupuram.
- (ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of



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

(iii) 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.

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

SS

To

1. The Principal Sessions Judge, Villupuram
2. The Judicial Magistrate No.I, Villupuram
3. The Inspector of Police, Taluk Police Station, Villupuram
4. The Superintendent, Central Prison, Cuddalore
5. The Public Prosecutor, High Court, Madras



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SUNDER MOHAN, J.

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