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Crl.M.P.No.1764 of 2023 in Crl.A.No.132 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.1764 of 2023

in

Crl.A.No.132 of 2023

Kamatchi

... Petitioner

/vs/

The State represented by
The Inspector of Police,
Arcot Taluk Police Circle,
Walajapet Police Station,
Ranipet District.
(Vellore District)
Crime No.751/2017

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(1) r/w.439 of Cr.P.C., to suspend the sentence imposed against the petitioner in S.C.No.139/2018 on the file of the learned II Additional District and Sessions Court, Vellore District @ Ranipet, Ranipet District, dated 24.01.2023 and enlarge the petitioner on bail pending disposal of the said criminal appeal.

For Petitioner

... Mr. E. Kannadasan

For Respondent

... Mr.A. Gokulakrishnan
Addl. Public Prosecutor



ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed against the petitioner in S.C.No.139/2018 on the file of the learned II Additional District and Sessions Court, Vellore District @ Ranipet, Ranipet District, dated 24.01.2023 and enlarge the petitioner on bail pending disposal of the said criminal appeal.

2. The trial court, by its judgment dated 24.01.2023 made in S.C.No.139/2018 ordered as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s 304 part (ii) IPC	To undergo 5 years RI and a fine of Rs.5000/-, in default in payment of fine, to undergo 6 months SI.
		Acquitted from the charge framed under section 302 IPC.
The sentence of imprisonment imposed on the petitioner is ordered to run concurrently		

3. Aggrieved over the judgment of conviction and sentence imposed, the petitioner has filed criminal appeal along with the instant miscellaneous petition, seeking suspension of sentence and bail.



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4. The learned counsel for the petitioner submitted that the petitioner is the wife of the deceased. The respondent police prosecuted against her for the offence under section 302 IPC, however, after trial, the trial court found her guilty only under section 304(ii) IPC and imposed conviction and sentence as stated above. In this case, the evidence of Doctor-PW9 and Ex.P.8- Post Mortem report points out that the deceased died due to neuroshock and there is no direct evidence to connect the accused with the crime. The petitioner is suffering incarceration since 24.01.2023. Therefore, she prayed for granting suspension of sentence imposed on her by the trial court and grant bail pending disposal of the appeal, as the appellant has arguable points in her favour and she has fair chance of success in the appeal.

5. The learned Govt. Advocate (crl.side) submitted that the deceased is the husband of the petitioner/accused and due to a family dispute, the occurrence had taken place. He further submitted that as per the post mortem report, the cause for the death is neuroshock happened to the deceased.

6. Considering the facts and circumstances of the case, the nature of the offence, the relationship of the petitioner/accused with the deceased and the origin of the crime being a domestic dispute and the Doctor's evidence



that the death of the deceased happened due to neuroshock and further there is no direct evidence in support of the prosecution case, this court is of the view that the petitioner is having arguable point in the appeal. Hence, this Court is inclined to grant suspension of sentence imposed on the petitioner till the disposal of the criminal appeal.

7. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner pending disposal of the appeal on the following conditions:

(i) The petitioner is ordered to be released on bail on executing a bond for a sum of Rs.10,000/-(Rupees ten thousand only) along with two sureties, each for a like sum, to the satisfaction of the Judicial Magistrate No.II, Walajapet.

(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bonds and the above said court may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity; and;



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(iii) The petitioner shall report before the trial court as and when required.

09.03.2023

msr

To

1. The Judicial Magistrate No.II, Walajapet.
2. The II Additional District and Sessions Court, Vellore District @ Ranipet, Ranipet District.
3. The Public Prosecutor, High Court, Madras.
4. The Superintendent, Central Prison, Coimbatore.
5. The Inspector of Police, Arcot Taluk Police Circle, Walajapet Police Station, Ranipet District. (Vellore District)

V.SIVAGNANAM, J.



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