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Crl.MP.No.3957 of 2023
in Crl.A.No.82 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.MP.NO.3957 OF 2023

IN

CRL.A.NO.82 OF 2023

Apponianraj

... Petitioner

Vs.

The State rep. By
Inspector of Police
K-10, Koyambedu Police Station
Koyambedu, Chennai – 107.
Crime No.896 of 2017

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Sections 389(1) Cr.P.C. to suspend the sentence of imprisonment imposed in the judgment dated 04.01.2023 made in S.C.No.427 of 2017 on the file of the Sessions Judge, Mahalir Neethimandram, Allikulam, Chennai and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.M.Guruprasad
for Mr.D.Lakshmipathy

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor



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CrLMP No.3957 of 2023
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ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner to suspend the sentence of imprisonment imposed on the petitioner in the judgment dated 04.01.2023 made in S.C.No.427 of 2017 by the learned Sessions Judge, Mahalir Neethimandram, Allikulam, Chennai and to enlarge him on bail, pending disposal of the above Criminal Appeal.

2. The learned counsel for the petitioner submitted that the petitioner is an accused in S.C.No.427 of 2019 on the file of learned Sessions Judge, Mahalir Neethimandram, Allikulam, Chennai. He was prosecuted by the respondent police for having committed an offence punishable under Section 302 IPC. After trial, the Trial Court found the petitioner guilty of the offence and convicted him under Section 304(Part I) IPC and sentenced him to undergo ten years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for six months. The accused is in custody from 04.01.2023. In this case, there is no eye witness to the occurrence and prosecution resisted the claim only on circumstantial



CrLMP No.3957 of 2023
in CrL.A.No.82 of 2023

evidence and the circumstances is also not proved by the prosecution.

Therefore, there is some arguable point in favour of the petitioner / accused and hence, seeks to suspend the sentence and to grant bail till the disposal of the main appeal.

3. The learned Additional Public Prosecutor submitted that the petitioner is the husband of the deceased and at the time of occurrence, both the deceased and the petitioner are in the same house. From the place of occurrence, the respondent / police recovered liquor bottles and mobile phone and the deceased was found with injuries on her forehead. There is a witness for the quarrel between the accused and the deceased. The circumstances against the accused are well established. The Trial Court has rightly found the petitioner guilty of the offence and convicted him. Hence, he seeks for dismissal of this petition.

4. Heard the submissions made on either side and perused the materials available on record.



CrLMP No.3957 of 2023
in CrL.A.No.82 of 2023

WEB COPY

5. On perusal of the records, it is seen that the respondent police registered a case against the petitioner for the offence punishable under section 302 IPC. Before the Trial Court, prosecution examined 11 witnesses as P.W.1 to P.W.11 and Exs.P1 to P.15 were marked. Though the prosecution relied upon the circumstantial evidence, P.W.3 deposed before the Trial Court about the quarrel between the accused and the deceased at the time of occurrence and that the evidences are available against the accused and hence, the Trial Court has rightly held the petitioner guilty of the offence and convicted him.

6. Considering the nature of the offence and the allegations levelled against the petitioner / accused, this Court finds no merit for suspending the sentence and to grant bail to the petitioner / accused. Accordingly, this Criminal Miscellaneous Petition is dismissed.

20.03.2023

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TK

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CrL.MP No.3957 of 2023
in CrL.A.No.82 of 2023

WEB COPY

To

- 1.The Sessions Judge
Mahalir Neethimandram
Allikulam,
Chennai.
- 2.The Inspector of Police
K-10, Koyambedu Police Station
Koyambedu,
Chennai – 107.
- 3.The Public Prosecutor
High Court of Madras
Chennai.
- 4.The Superintendent
Central Prison
Puzhal,
Chennai.



WEB COPY



CrL.MP No.3957 of 2023
in CrL.A.No.82 of 2023

V.SIVAGNANAM, J.

TK

CRL.MP.NO.3957 OF 2023
IN CRL.A.NO.82 OF 2023

20.03.2023

(2/2)