



Crl.MP.No.7590 of 2023
in Crl.A.No.614 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.11.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.7590 of 2023
in Crl.A.No.614 of 2023

S.Raj Kumar

...Petitioner/Accused

Vs.

The State Represented by its
The Inspector of Police,
Vedaranyam Police Station
(Crime No.339/2010)

... Respondent/Complainant

Prayer :- Criminal Miscellaneous Petition filed under Section 389 of Cr.P.C. to suspend the sentence imposed in S.C.No.21 of 2015 on the file of the learned Court of Sessions (Fast Track Mahila) Judge, Nagapatinam, dated 27.09.2022 and enlarge the petitioner on bail until the pending disposal of the above Criminal Appeal.

For Petitioner : Mr.S.Manoharan
For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor



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ORDER

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

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner/A4, by the learned Sessions (Fast Track Mahila) Judge, Nagapatinam, in S.C.No.21 of 2015, by the judgment dated 27.09.2022, and enlarge him on bail pending disposal of the above Criminal Appeal.

2.The learned Sessions (Fast Track Mahila) Judge, Nagapatinam, in S.C.No.25 of 2015, convicted the petitioner herein/A4 and sentenced him as follows:

Accused	Offence	Sentence Imposed
A4	341 IPC	To undergo one month rigorous imprisonment
	302 r/w 34 IPC	To undergo life imprisonment and to pay a fine of Rs.10,000/-, in default to undergo six months rigorous imprisonment
	201 IPC	To undergo five years rigorous imprisonment and to pay a fine of Rs.5,000/- in default to undergo three months rigorous imprisonment

3.Challenging the above conviction and sentence, the petitioner/A4, has



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filed the above Criminal Appeal and he seeks suspension of sentence and bail in the present miscellaneous petition.

4. Heard Mr.S.Manoharan, learned Counsel appearing for the petitioner and Mr.A.Gokulakrishnan, learned Additional Public Prosecutor, appearing for the respondent/State.

5. The case of the prosecution is that that there was a frequent quarrel between A1 and the family of one Packiri, who is one of the witnesses; that about three months prior to the occurrence, the deceased Vedhanayaki, D/o Packiri, scolded A1 and assaulted him by using broom; that A1 at that time, proclaimed that the death of the deceased would be by him anytime later; that on 21.09.2010, at about 8:00 PM, when the deceased returned from her place of work at Appar Computer Centre, North Street, Vedaranyam to her house in her bicycle, A1 along with A3 and A4 waylaid the deceased and attacked her by using aruval and thereby committed murder of the deceased and took away the gold chain, one pair of ear stud and another pair of thongal and one pair of silver anklets etc., and took the body and put in a septic tank situated in the backside



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of the AEO Colony and closed the same by using cement plate.

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6. It appears that the Trial Court convicted all the accused since A1 had a motive and there was recovery pursuant to A1's confession. However, we find that there is no evidence or material to hold that the petitioner is guilty of the offences charged against him. There is no discussion by the trial Court as to how A4 had joined A1 in the commission of offence in this crime. Merely because A4 happened to be the friend of A1, there cannot be inference that he is guilty of the offence. Therefore, this Court finds *prima facie* case in favour of the petitioner, and we are inclined to Suspend the Sentence imposed on the petitioner herein.

7. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence of imprisonment imposed on the petitioner/A4 is suspended on the following conditions:

- (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 learned Sessions (Fast Track Mahila) Judge, Nagapattinam,;
- (ii) The petitioner and the sureties shall affix their photographs and



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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 numbers to ensure their identity;

(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.)
24.11.2023

dk

Internet : Yes

Index : Yes / No

Note to office : Issue Order Copy on 29.11.2023

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- WEB COPY
- 1.The Sessions (Fast Track Mahila) Judge,
Nagapatinam.
 - 2.The The Inspector of Police,
Vedaranyam Police Station.
 - 3.The Superintendent,
Central Prison, Cuddalore
 - 4.The Public Prosecutor,
High Court, Madras.



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and
SUNDER MOHAN, J.

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