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Crl.M.P.No.6611 of 2023 in Crl.A.No.82 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.6611 of 2023

in

Crl.A.No.82 of 2023

Apponianraj

... Petitioner

/vs/

State rep. by :

The Inspector of Police,
K-10, Koyambedu Police Station,
Koyambedu, Chenna – 107.
[Crime No.896 of 2017]

... Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(i) read with 439 of Cr.P.C., to suspend the sentence imposed in Sessions Case No.427 of 2019 dated 04.01.2023 passed by the Sessions Judge, Mahalir Neethimandram, Allikulam, Chennai and enlarge the petitioner on bail, pending disposal of the above appeal.

For Petitioner ... Mr.D.Lakshmipathy

For Respondent ... Mr.R.Vinothraja
Government Advocate [Criminal Side]

**ORDER**

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This Criminal Miscellaneous Petition has been preferred to suspend the sentence, dated 04.01.2023 imposed on the petitioner in Sessions Case No.427 of 2019 on the file of the Sessions Judge, Mahalir Neethimandram, Allikulam, Chennai and enlarge the petitioner on bail, pending disposal of the above appeal.

2. The petitioner, who is the sole accused in Sessions Case No.427 of 2019 is convicted and sentenced by the trial court, by its judgment dated 04.01.2023 as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole	U/s.304 [Part – 1] of IPC	To undergo RI for 10 years and pay a fine of Rs.5,000/-, in default in payment of fine, to undergo further 6 months SI

The detention period already undergone by the accused, from 18.04.2017 to 23.06.2017 and 04.01.2023 to 06.01.2023 is Ordered to be set off. The fine amount has been paid by the accused.



3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in Sessions Case No.427 of 2019, the petitioner has filed the present criminal appeal, along with the instant miscellaneous petition, seeking suspension of sentence and bail.

4. The learned counsel for the petitioner would submit that though the petitioner was charged under section 302 of IPC for doing death of the deceased, the trial Court found the accused guilty for the offence under section 304 [Part -1] and convicted and sentenced the accused as stated above. The accused is in custody from 04.01.2023 and that there are arguable points in this appeal and the petitioner has every chance to succeed in this Criminal appeal. Therefore, he prayed for suspension of sentence till the disposal of this Criminal appeal.

5. The learned Government Advocate [Criminal Side] conceded that the fine amount has been paid by the petitioner and submitted that though the accused was charged for the offence under section 302 of IPC, he was convicted and sentenced for the offence under section 304 [Part – I] of IPC alone.



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6. Heard the learned counsel for the petitioner and learned Government Advocate [Criminal Side] and perused the complaint, FIR and evidence of the witnesses and other material evidence available on record.

6. On a complaint given by the one Vijayakumar, an employee of the petitioner, a case has been registered against the petitioner/accused by the respondent police in Crime No.896 of 2017 for the offence under section 302 of IPC. The trial Court after trial, convicted the petitioner for the offence under section 304 [Part – 1] of IPC. Considering the facts and circumstances of the case and that the petitioner is in custody from 04.01.2023, this Court is inclined grant suspension of sentence and bail to the petitioner.

7. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner 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 Trial Court;



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- (ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bonds and the trial Court may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity; and;
- (iii) The petitioner shall appear before the trial Court on the first working day of every month until further Orders.

28.06.2023

vrc

To

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



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V.SIVAGNANAM, J.

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