



WEB COPY



Crl.MP.No.8532 of 2023
in Crl.A.No.652 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.11.2023

PRONOUNCED ON : 09.11.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.8532 of 2023
in Crl.A.No.652 of 2023

Sekar

... Petitioner/A4

Vs.

State Rep. by

The Inspector of Police,
R-10, MGR Nagar Police Station,
Chennai.

Cr.No.297/2013.

... Respondent/Complainant

Prayer :- Criminal Miscellaneous Petition filed under Section 389 (1) of Cr.P.C. to suspend the sentence imposed by the learned Sessions Judge, Mahalir Neethimandram, Allikulam, Chennai, dated 14.12.2021 in S.C.No.25 of 2015 and enlarge the petitioner on bail pending disposal of the above appeal.

For Petitioner : Mr.G.Murugendran

For Respondent : Mr.A.Gokulakrishnan

Page 1 of 8



WEB COPY



Crl.MP.No.8532 of 2023
in Crl.A.No.652 of 2023

Additional Public Prosecutor

ORDER

(Order of the Court was delivered by **SUNDER MOHAN, J.**)

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner/A4, by the learned Sessions Judge, Mahalir Neethimandram, Allikulam, Chennai, in S.C.No.25 of 2015, by the judgment dated 14.12.2021, and enlarge him on bail pending disposal of the above Criminal Appeal.

2.The learned Sessions Judge, Mahalir Neethimandram, Allikulam, Chennai, in S.C.No.25 of 2015, convicted the petitioner herein/A4 for the offence under Section 302 IPC and sentenced him to undergo life imprisonment and to pay a fine of Rs.5,000/-, in default to undergo six months simple imprisonment.

3.Challenging the above conviction and sentence, the petitioner/A4, has filed the above Criminal Appeal and he seeks suspension of sentence and bail in the present miscellaneous petition.



CrI.MP.No.8532 of 2023
in CrI.A.No.652 of 2023

WEB COPY

4. Heard Mr.R.Murugendran, 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 the petitioner and the deceased were in live-in relationship; that the deceased was already married to one Jayaraman; that she got separated from her husband 10 years prior to the occurrence and after that the petitioner and deceased started living together; that there were frequent quarrels between them; that on 19.04.2014 the deceased was brought to Chennai to work as a cleaner in a hotel by the brother of the petitioner; that the petitioner came to live with the deceased at Chennai; that on 12.06.2014 pursuant to a quarrel, the petitioner is said to have strangled the neck of the deceased and caused her death; that a case in Crime No.819 of 2014 for offence under Section 174 Cr.P.C. (Suspicious death) on 13.06.2014 and the same was later altered to 302 IPC.

6. The learned counsel for the petitioner submitted that the tendency



CrI.MP.No.8532 of 2023
in CrI.A.No.652 of 2023

WEB COPY

of the prosecution to fabricate evidence is revealed by the fact that they originally projected as if one A.Kumar, who was examined as LW5 during investigation was an eyewitness to the occurrence; that later the prosecution did not examine the said witness and projected it as a case of circumstantial evidence. The learned counsel further submitted that PW1, the brother of the petitioner turned hostile. PW2 and PW3, are witnesses who are alleged to have last seen the deceased in the house of the petitioner on 12.06.2014 at about 12.00am. However, PW2 and PW3 are neighbours (husband and wife) and PW2 turned hostile and the evidence of PW3 also suffers from material contradiction. The other circumstances have not been conclusively established by the prosecution. The learned counsel further submitted that the accused is in custody since 14.12.2021 and is aged about 62 years and suffering from several ailments and produced the medical records, wherein it is observed as follows:

“Grade 3 Prostatomegaly.

Left inguinal hernia with herniation of omentum as content.”

“RE-Traumatic Optic Neuropathy”

7. The learned counsel pointing out the medical records of the



CrI.MP.No.8532 of 2023
in CrI.A.No.652 of 2023

WEB COPY

petitioner, prayed to suspend the sentence imposed on the petitioner.

8. Based on the counter affidavit filed by the respondent, the learned Additional Public Prosecutor opposed this petition and submitted that the prosecution has proved the case beyond reasonable doubt. PW3 is a neighbour, who had last seen the deceased in the house of the petitioner and she had no axe to grind. Considering the above circumstances, the trial Court had rendered the finding of guilt against the petitioner and there is no infirmity in the same.

9. PW1 and PW2 turned hostile. In the light of the above and the fact that the petitioner is aged 62 years, suffering from several ailments as stated above, and also considering the period of incarceration from 14.12.2021 and that the appeal is not likely to be taken up in the near future, this Court is inclined to Suspend the Sentence imposed on the petitioner herein.

10. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence of imprisonment imposed on the petitioner/A4 is



CrI.MP.No.8532 of 2023
in CrI.A.No.652 of 2023

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 Judge, Mahalir Neethimandram, Allikulam, Chennai;
- (ii) The petitioner and the sureties shall affix their photographs and 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.



CrI.MP.No.8532 of 2023
in CrI.A.No.652 of 2023

(S.S.S.R., J.)

(S.M., J.)

09.11.2023

WEB COPY

ars

Internet : Yes

Index : Yes / No

Note to office:

Upload the order copy forthwith

To

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



WEB COPY



Crl.MP.No.8532 of 2023
in Crl.A.No.652 of 2023

S.S. SUNDAR, J.
and
SUNDER MOHAN, J.

ars

Pre-delivery order in
Crl.MP.No.8532 of 2023
in Crl.A.No.652 of 2023

Dated: 09.11.2023