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Crl.M.P.No.13348 of 2023 in Crl.A.No.927 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2023

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.13348 of 2023
in Crl.A.No.927 of 2023

Mrs.Gowri
W/o Raji

.. Petitioner

-VS-

1. State represented by
Inspector of Police
Pattabiram Police Station
Tiruvallur
(Crime No.96 of 2016)

.. Respondent

Criminal Miscellaneous Petition filed under Section 389(1) of the Code of Criminal Procedure to suspend the sentence of imprisonment passed by the learned I Additional District and Sessions Judge, Tiruvallur dated 27.09.2019 in Sessions Case No.272 of 2016 and enlarge the petitioner on bail, pending disposal of the appeal.

For Petitioner :: Mr.S.Kingston Jerold

For Respondents :: Mr.A.Gokulakrishnan
Additional Public Prosecutor



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ORDER

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The petitioner, who is the sole accused in S.C.No.272 of 2016 on the file of the learned I Additional District & Sessions Judge, Tiruvallur, stands convicted for the offence under Section 302 of IPC and sentenced to undergo imprisonment for life and also to pay a fine of Rs.5,000/-, in default to undergo simple imprisonment for four months vide the judgment dated 27.09.2019 passed by the trial Court. Challenging the said conviction and sentence, the petitioner has filed the above appeal. The present miscellaneous petition has been filed to suspend the sentence and enlarge her on bail, pending the above appeal.

2. It is the case of the prosecution that the accused is the wife of the deceased; that she got married to the deceased 1 ½ years prior to the occurrence and they had a male child by name Aakash; that the deceased always suspected the fidelity of the accused, as the male child was born within six months of marriage, and it was his habit to come home in an inebriated condition and always harassed and beaten the accused; that on 13.02.2016, the deceased came home in an inebriated condition and beat and kicked the accused in the stomach and thereafter, while he was



sleeping, the accused had caused his death by throwing a grinding stone on his head and thereafter locked and left the house by 6.00 P.M., on the same day and stayed with her mother-in-law, P.W.1; that when P.W.1 asked the accused as to why she came to her house, the accused is said to have stated to P.W.1 that the deceased was beating her and therefore she was frightened to stay with him or alone in the house.

3. The learned counsel appearing for the petitioner submitted that the case is based on circumstantial evidence and that the prosecution had not established the circumstances conclusively. The learned counsel, pointing out the evidence of witnesses, submitted that the prosecution has not established the chain of circumstances and that in any case, the circumstances do not point to the guilt of the accused. The learned counsel further submitted that the accused is in confinement since 2019 and has to take care of her child, who is aged less than five years.

4. The learned Additional Public Prosecutor, per contra, submitted that the motive has been established with the evidence of P.Ws.1 to 3, the mother, sister and niece of the deceased and also through the evidence of P.W.4, a neighbour. The occurrence took place in the house where the



any other circumstance. Therefore, we are of the view that the prosecution has not proved all the links in the chain of circumstances which would point only to the guilt of the petitioner and ruling out any other hypothesis. Considering the fact that the petitioner, a lady, is in confinement from 27th September, 2019 and the appeal is not likely to be taken up in the near future, we are inclined to suspend the sentence.

6. Accordingly, this criminal miscellaneous petition stands allowed and the substantive sentence of imprisonment imposed on the petitioner is suspended and she is granted bail on the following conditions:-

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) with two sureties, of whom one should be a blood relative, each for a likesum, to the satisfaction of the learned Chief Judicial Magistrate, Tiruvallur.
- (ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar card or Bank Pass Book and mobile numbers to ensure their identity; and
- (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 she is not able to appear before the trial Court on any day, she 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



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date of her absence, as directed by the trial Court.

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(S.S.S.R.,J.) (S.M.,J.)
22.11.2023

SS

To

1. The I Addl. District & Sessions Judge, Tiruvallur
2. The Chief Judicial Magistrate, Tiruvallur
3. The Inspector of Police, Pattabiram Police Station, Tiruvallur
4. The Superintendent, Special Prison for Women, Puzhal, Chennai
5. The Public Prosecutor, High Court, Madras



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S.S.SUNDAR, J.
AND
SUNDER MOHAN, J.

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