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Crl.M.P.No.13452 of 2023 in Crl.A.No.851 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2023

CORAM

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

Crl.M.P.No.13452 of 2023
in Crl.A.No.851 of 2019

1. Arumugam
S/o Velayutham
2. Priya
W/o Arumugam .. Petitioners

-vs-

State by:
The Inspector of Police
Katpadi Police Station
Vellore District
(Crime No.395 of 2017) .. Respondent

Criminal Miscellaneous Petition filed under Section 389(1) of the Code of Criminal Procedure to suspend the sentence imposed in S.C.No.226 of 2018 by the learned Additional District and Sessions Judge, Fast Track Court, Vellore District dated 04.11.2019 and enlarge the petitioners on bail, pending disposal of the appeal.

For Petitioners :: Mr.N.Sudharsan

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



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ORDER

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

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The petitioners, who are accused nos.1 & 2, have filed the appeal challenging the conviction and sentence imposed by the learned Additional District & Sessions Judge (Fast Track Court), Vellore District vide judgment dated 04.11.2019 in S.C.No.226 of 2018 directing each of them to undergo rigorous imprisonment for life and also to pay a fine of Rs.1,000/-, in default to undergo rigorous imprisonment for a period of 6 months for the offence under Section 302 r/w 34 of IPC; each to undergo rigorous imprisonment for 7 years and also to pay a fine of Rs.1,000/-, in default to undergo rigorous imprisonment for a period of 6 months for the offence under Section 201 r/w 34 of IPC, which are ordered to run concurrently. Pending the appeal, the petitioners have filed the present miscellaneous petition seeking to suspend the sentence and enlarge them on bail.

2. We have heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the respondent and also perused the materials available on record.



3. Though there are material evidence to sustain the findings of the trial Court that the 1st petitioner/1st accused has caused the brutal murder of his own mother by force, it is admitted that the body was exhumed on the information furnished by the 1st accused. The 2nd petitioner is the wife of the 1st accused and though the case of the prosecution is that she assisted the 1st accused in the commission of offence, the evidence against her is not convincing and this Court, having regard to the fact that she is in jail from the year 2019, is inclined to suspend the sentence so far as the 2nd petitioner/2nd accused is concerned. In view of the specific overtact as against the 1st accused, the petition stands dismissed so far as the 1st petitioner is concerned.

4. Accordingly, this criminal miscellaneous petition stands allowed and the substantive sentence of imprisonment imposed on the 2nd petitioner is suspended and she is granted bail on the following conditions:-

- (i) The 2nd 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 Judicial Magistrate, Katpadi, Vellore District.
- (ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of



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their Aadhar card or Bank Pass Book and mobile numbers to ensure their identity; and

(iii) The 2nd 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 date of her absence, as directed by the trial Court.

(S.S.S.R.,J.) (S.M.,J.)
03.11.2023

SS

To

1. The learned Additional District & Sessions Judge, (Fast Track Court), Vellore District
2. The Judicial Magistrate, Katpadi, Vellore District
3. The Inspector of Police, Katpadi Police Station, Vellore District
4. The Superintendent, Special Prison for Women, Vellore District
5. The Public Prosecutor, High Court, Madras



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