



Crl.M.P.No.13660 of 2023
in Crl.A.No.950 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.M.P.No.13660 of 2023

in

Crl.A.No.950 of 2023

P.Suresh Reddy

... Petitioner

Vs.

State represented by
The Inspector of Police,
Hosur Police Station.

... Respondent

Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. to suspend the sentence passed by the Additional District and Sessions Judge, Hosur, in S.C.No.147 of 2019, dated 24.07.2023 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.



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For Petitioner : Mr.R.Vijayaraghavan

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

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

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned Additional District and Sessions Judge, Hosur, in S.C.No.147 of 2019, by judgment dated 24.07.2023 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

2.The case of the prosecution is that there was a marriage function at Badrachetty Kalyana Mandapam, Hosur By-pass Road, on 09.05.2012; at about 09.00 p.m., P.W.1, along with his relatives, went to the said Kalyana Mandapam to attend the marriage; that the deceased Narasimman and the accused Suresh/petitioner also came to the marriage function and consumed liquor; that the deceased Narasimman and the accused Suresh picked up



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wordy quarrel and exchanged words in filthy language; that due to prior enmity, with an intention to commit murder, the accused repeatedly attacked the deceased on his head with empty green colour beer bottle and the deceased sustained fatal injuries. The *de facto* complainant (P.W.1) took the deceased to the hospital, where the Doctor examined the deceased and said that he had already died. An FIR was registered in Crime No.471 of 2012 on the file of the Hosur Town Police Station, Krishnagiri, for the offence under Section 302 IPC against the accused Suresh.

3.The criminal case culminated into S.C.No.147 of 2019 and was tried by the learned Additional District and Sessions Judge, Hosur, and ultimately, the petitioner/accused was convicted for the offence under Section 304(ii) IPC and was sentenced to Life Imprisonment and to pay a fine of Rs.2,00,000/-, in default, to undergo Rigorous Imprisonment for one year.



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4.Challenging the above conviction and sentence, the accused has filed the above Criminal Appeal and he seeks suspension of sentence and bail in the present miscellaneous petition.

5.Heard the learned counsel for the petitioner/accused and Mr.A.Gokulakrishnan, learned Additional Public Prosecutor appearing for the respondent/State.

6.It is seen that, except the wife of the deceased (P.W.4), no other witness has spoken about the involvement of the accused in the crime. Many of the witnesses who have been examined as eye-witness have turned hostile. P.W.1, who is the *de facto* complainant, has stated that the deceased was initially taken to a private hospital and at that time, the deceased was hale and healthy but in a drunken mood. It is his version during cross-examination that the deceased, who was in drunken mood, was throwing tables and chairs when he was taken to the private hospital. It was only after the Doctor administering an injection, the deceased became unconscious and was suffering from breathlessness. Ultimately, it was



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thereafter, the deceased was taken to Government Hospital, where he was declared dead. The trial Court has convicted the petitioner only under Section 304(ii) IPC. Except the wife of the deceased, no other witness has spoken about the motive or the involvement of the accused. The entire evidence of P.W.1, if examined properly, there is no direct evidence to connect the petitioner's involvement in the alleged offence. This Court, on examination of the evidence of P.W.1 and P.W.4, finds that a *prima facie* is case made out in favour of the petitioner and therefore, this Court is inclined to suspend the sentence imposed on the petitioner and grant bail to him.

7. Accordingly, this Criminal Miscellaneous Petition stands **allowed** and the sentence of imprisonment imposed on the petitioner/accused is **suspended** and he is granted bail 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 Judicial Magistrate No.II, Hosur.
- (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



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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 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.)
02.11.2023

mkn

Internet : Yes

Index : Yes / No

To

1.The Additional District and Sessions Judge,
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2.The Judicial Magistrate No.II,
Hosur.

3.The The Inspector of Police,
Hosur Police Station.

4.The Superintendent,
Central Prison,
Vellore.

5.The Public Prosecutor,
High Court, Madras.

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



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