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Crl.M.P.No.15176 of 2022
in Crl.A.No.424 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.M.P.No.15176 of 2022

in

Crl.A.No.424 of 2021

S.Ajeeth

... Petitioner

Vs.

State of Tamil Nadu
Inspector of Police,
Villupuram Taluk Police Station.
Crime No.729 of 2016.

... Respondent

Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. to suspend the sentence passed by the Principal Sessions Judge, Villupuram, in S.C.No.123 of 2017, dated 11.08.2021 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.



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For Petitioner : Mr.P.Muthamizh Selvakumar
for M/s.S.Sudalaikani

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 Principal Sessions Judge, Villupuram, in S.C.No.123 of 2017, by judgment dated 11.08.2021 and to enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

2.The learned Principal Sessions Judge, Villupuram, in S.C.No.123 of 2017, has convicted the petitioner/A6 for the offence under Sections 120(B) and 302 r/w. 120(B) IPC and sentenced him to undergo Life Imprisonment and to pay a fine of Rs.50,000/-, in default, to undergo Simple Imprisonment for 3 ½ years, for each of the offences.



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3.Challenging the above conviction and sentence, the petitioner, who is arrayed as A6, has filed the above Criminal Appeal and he is seeking suspension of sentence and bail in the present miscellaneous petition.

4.The case of the prosecution is that, on 07.10.2016, when the deceased namely Ayyanar, along with P.W.2 and P.W.7 were travelling in a motor cycle from Ariyalur to Kuchipalayam, at about 07.45 p.m., due to previous enmity, 10 persons hiding from the sugarcane field came and obstructed the vehicle in which the deceased was travelling and pushed down the vehicle. A1, A3, A4, A5 and A6 caught hold of the hands and legs of the deceased and A2 stabbed the deceased with a knife on the chest. A1 bet the deceased with the hand on the chest. A3 kicked the deceased on the stomach and A4 and A5 punched on the neck of the deceased. Due to the attack, the deceased sustained grievous injuries and ultimately, succumbed to the injuries. Hence, the case.



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5. Heard the learned counsel for the petitioner/A6 and Mr.A.Gokulakrishnan, learned Additional Public Prosecutor appearing for the respondent/State.

6. Though the case of the prosecution has been accepted by the trial Court, this Court finds a few circumstances which would seriously doubt the involvement of petitioner/A6 as a person connected with the offence of murder. As per the evidence of witnesses, the allegation against A6 was that he caught hold the hip of the deceased and at that time, the 2nd accused stabbed on the left side chest of the deceased. However, as per the medical report, there was a single stab that is attributable to the attack by the 1st accused on the chest of the deceased. It is admitted that the eye-witnesses are all the close relatives of the deceased. The whole incident appears to be arising out of a dispute between the family of victim as well the villagers. There appears to be a scuffle that led to commission of murder. While the 1st accused has caused grievous injury, as against A6, there is no charge of assault. From the framing of charges against several persons, this Court is



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of the view that the probability of false implication cannot be ruled out.

Considering the fact that the petitioner was arrested and it is admitted that he is in custody for more than two years and considering the period of incarceration already undergone by the petitioner, this Court is inclined to suspend the sentence.

7. Accordingly, this Criminal Miscellaneous Petition stands **allowed** and the sentence of imprisonment imposed on the petitioner/A6 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.I, Villupuram.
- (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



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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.)
06.10.2023

mkn

Internet : Yes

Index : Yes / No

To

- 1.The Principal Sessions Judge,
Villupuram.
- 2.The Judicial Magistrate No.I,
Villupuram.
- 3.The Inspector of Police,
Villupuram Taluk Police Station,
Villupuram.
- 4.The Superintendent,
Central Prison,
Cuddalore.
- 5.The Public Prosecutor,
High Court, Madras.



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