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Crl.M.P.No.15157 of 2023
in Crl.A.No.1033 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.M.P.No.15157 of 2023

in

Crl.A.No.1033 of 2023

Narayani @ Nathiya

... Petitioner

Vs.

The Inspector of Police,
Annur Police Station,
Coimbatore District.

... Respondent

Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. to suspend the sentence passed by the learned Sessions Judge, Special Court for Bomb Blast Cases, Coimbatore, in S.C.No.103 of 2013 dated 30.10.2013, and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.



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For Petitioner : M/s.D.Geetha

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

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

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned Sessions Judge, Special Court for Bomb Blast Cases, Coimbatore, in S.C.No.103 of 2013, by judgment dated 30.10.2013, and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

2.The case of the prosecution is that the petitioner was a resident of Kandaramanickam Village, Sivagangai District; that she got separated from her husband and she wanted to marry one Ramasamy; that she had a two year old girl child; that under the impression that the child would be a hindrance, she wanted to do away with the child and hence, on 01.09.2012, she threw the child in a well belonging to a private person at about 7.30 p.m.



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It is the further case of the prosecution that P.W.1 had lodged a complaint at about 10.00 p.m. stating that the child was found floating in the well and that the witnesses saw a lady, with her face covered, throwing an object into the well at about 7.30 p.m. Thereafter, a case was registered against the petitioner in Crime No.500 of 2012 for the offence under Section 302 IPC.

3.The petitioner was tried by the learned Sessions Judge, Special Court for Bomb Blast Cases, Coimbatore, in S.C.No.103 of 2013, and ultimately, the petitioner/accused was convicted and sentenced as follows :

<i>Conviction</i>	<i>Sentence</i>
Section 302 IPC	Life Imprisonment
Section 201 IPC	Rigorous Imprisonment for three years
The sentences were ordered to run concurrently.	

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



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5.The learned counsel for the petitioner submitted that P.W.1 admitted that the police were present even before she gave the complaint at 10.00 p.m. and that the prosecution has suppressed the genesis and origin of the occurrence. The learned counsel further submitted that it is the case of the prosecution that the petitioner threw the child at about 7.30 p.m. and within two hours, the body of the child was floating in the well, which is highly improbable and belies medical jurisprudence. Hence, the learned counsel submitted that the prosecution case cannot be believed.

6.*Per contra*, learned Additional Public Prosecutor appearing for the respondents submitted that the prosecution has established their case beyond reasonable doubt and the petitioner has not made out any case for suspension of sentence.

7.On perusal of the records, we find that the petitioner is in custody from 30.10.2013, which is confirmed by the learned Additional Public Prosecutor. The appeal has been filed only in the year 2023. It is seen that the complaint given by P.W.1 cannot be treated as first information, as



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admittedly, the police were present at the time of occurrence even before the complaint was lodged. The evidence of the ocular witnesses is not consistent with the medical evidence. Further, there are several improbabilities in the evidence let in by the prosecution. That apart, the petitioner is in custody for more than 10 years. For the aforesaid reasons, we are inclined to suspend the sentence imposed on the petitioner and grant bail to her.

8. Accordingly, this Criminal Miscellaneous Petition stands **allowed** and the sentence of imprisonment imposed on the petitioner/accused 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/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Bomb Blast Cases, Coimbatore.
- (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



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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.)
20.12.2023

mkn

Internet : Yes

Index : Yes / No

To

- 1.The Sessions Judge,
Special Court for Bomb Blast Cases,
Coimbatore.
- 2.The Inspector of Police,
Annur Police Station,
Coimbatore District.
- 3.The Superintendent,
Central Prison,
Coimbatore.
- 4.The Public Prosecutor,
High Court, Madras.

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



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