



WEB COPY



Crl.M.P.No.16406 of 2023
in Crl.A.No.1106 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.M.P.No.16406 of 2023

in

Crl.A.No.1106 of 2023

Chandiran

... Petitioner

Vs.

State represented by
The Inspector of Police,
Thalli Police Station,
Thalli,
Krishnagiri District.

... Respondent

Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. to suspend the sentence passed by the learned Additional District and Sessions Judge, Hosur, in S.C.No.57 of 2017, dated 12.04.2021, and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.



Crl.M.P.No.16406 of 2023
in Crl.A.No.1106 of 2023

WEB COPY

For Petitioner : Mr.V.Rajamohan

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/A1 by the learned Additional District and Sessions Judge, Hosur, in S.C.No.57 of 2017, by judgment dated 12.04.2021, and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

2.It is the case of the prosecution that the deceased was a Priest in Badhrakaliamman Temple and both the deceased and A1 had the practice of giving talisman to the villagers; that they competed with each other in convincing the villagers about their powers; that hence, the deceased and A1 had enmity; the deceased is said to have practiced black magic i.e., kept lime and egg in order to cause harm to A1; that A1 who came to know of it,



Crl.M.P.No.16406 of 2023
in Crl.A.No.1106 of 2023

decided to do away with the deceased with the help of A2 and A3; that on 08.05.2015, the three accused waylaid the deceased who was coming in his two wheeler at 21.30 hours on the pathway to his house and attacked the deceased with knife and Aruvaal, as a result of which, the deceased succumbed to the injuries. Hence, a case was registered in Crime No.228 of 2015, against the accused, for the offences under Sections 120(b), 294(b), 341 and 302 IPC.

3.The case then culminated into S.C.No.57 of 2017 and was tried by the learned Additional District and Sessions Judge, Hosur, and ultimately, the petitioner/A1 was convicted for the offence under Section 302 r/w.34 IPC and sentenced to Life Imprisonment and to pay a fine of Rs.20,000/-, in default, to undergo Simple Imprisonment for six months.

4.Challenging the above conviction and sentence, A1 has filed the above Criminal Appeal and he seeks suspension of sentence and bail in the present miscellaneous petition.



Crl.M.P.No.16406 of 2023
in Crl.A.No.1106 of 2023

WEB COPY

5.Learned counsel for the petitioner submitted that the case which is based on circumstantial evidence has not been fully established by the prosecution; that the motive has not been established; that, on the contrary, Ex.P1 would show that P.W.1 suspected the involvement of one Ganesh and Gopal and that the Investigating Officer has admitted that he had not enquired these two persons or investigated regarding their involvement in the alleged crime. The learned counsel submitted that the trial Court had convicted the petitioner/A1 only on the ground that the recovery of blood-stained clothes has proved their involvement in the offence. The learned counsel further submitted that the report of the Forensic Sciences Laboratory would show that the blood group of the deceased was not proved by the prosecution and the blood stains found in the clothes recovered from the accused was of 'A'-Group which does not advance the prosecution in any manner.

6.Learned Additional Public Prosecutor appearing for the respondents has submitted that the prosecution has established their case beyond



Crl.M.P.No.16406 of 2023
in Crl.A.No.1106 of 2023

WEB COPY

reasonable doubt and the appellant has not made out any case for suspension of sentence.

7. On a perusal of records, we find that the prosecution has not established the motive, which is an important circumstance in a case of circumstantial evidence. Though prosecution case is that the deceased had practised black magic by keeping lime and egg in the house of A1, there is no evidence to substantiate the same. On the contrary, the Investigating Officer has ignored the version of P.W.1 in Ex.P1, wherein he had mentioned about his suspicion with regard to the involvement of two other persons Ganesh and Gopal. It is also seen that the Investigating Officer had not conducted any investigation to rule out their involvement in the offence. Further, we find that the recoveries would not advance the prosecution in any manner, as the blood group of the deceased has not been proved by the prosecution. No other circumstance has been proved by the prosecution. We find, therefore, that the petitioner has fair chance of success in the appeal. Therefore, finding a *prima facie* case in favour of the petitioner/A1, this Court is inclined to suspend the sentence imposed on the petitioner and



Crl.M.P.No.16406 of 2023
in Crl.A.No.1106 of 2023

grant bail to him.

WEB COPY

8. Accordingly, this Criminal Miscellaneous Petition stands **allowed** and the sentence of imprisonment imposed on the petitioner/A1 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 District Munsif-cum-Judicial Magistrate, Denkanikottai.
- (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 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.)
15.12.2023

mkn



Crl.M.P.No.16406 of 2023
in Crl.A.No.1106 of 2023

Internet : Yes

Index : Yes / No

To

- 1.The Additional District and Sessions Judge,
Hosur.
- 2.The District Munsif-cum-Judicial Magistrate,
Denkanikottai.
- 3.The Inspector of Police,
Thalli Police Station,
Thalli,
Krishnagiri District.
- 4.The Superintendent,
Central Prison,
Vellore.
- 5.The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.M.P.No.16406 of 2023
in Crl.A.No.1106 of 2023

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

mkn

Crl.M.P.No.16406 of 2023
in Crl.A.No.1106 of 2023

15.12.2023