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CrI.M.P.No.19033 of 20__
in CrI.A.No.1265 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2023

CORAM

THE HON'BLE MR. JUSTICE **P.N.PRAKASH**
AND
THE HON'BLE MR. JUSTICE **N.ANAND VENKATESH**

CrI.M.P.No.19033 of 2022
in CrI.A.No1265 of 2022

Karuppaiya

.. Appellant /Accused

Vs.

State
The Inspector of Police,
Sivagiri Police Station,
Erode District

.. Respondent/Complainant

Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. to suspend the sentence passed in S.C.No.119 of 2018 dated 07.01.2020 on the file of the Sessions Judge, Magalir Neethimandram, (Fast Track Mahila Court), Erode and enlarge the petitioner on bail pending disposal of the aforesaid appeal.

For Petitioner : Mr.Silambu Selvan

For Respondent : Mr.R.Muniyapparaj
Additional Public Prosecutor



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ORDER

(Order of the Court was made by N.ANAND VENKATESH J.)

This criminal miscellaneous petition has been preferred seeking to suspend the sentence imposed on the petitioner in S.C.No.119 of 2018 dated 07.01.2020 on the file of the Sessions Court, Magalir Neethimandram, (Fast Track Mahila Court), Erode

2. The petitioner was convicted for offence under Section 302 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.5,000/-, in default to undergo three months simple imprisonment.

3. The case of the prosecution is that the petitioner was taking care of the house and agricultural lands of the deceased, who was an agriculturist. The petitioner is said to have borrowed a sum of Rs.10,000/- as hand loan from the deceased and out of which, he had returned back only a sum of Rs.5,000/- to the deceased. The deceased is said to have demanded the balance amount and this had created enmity between the petitioner and the deceased.

4. On 31.08.2017, when Kishore [PW1], defacto complainant



came from his college, he found the house locked from outside and he managed to open the house and found his mother dead. The cause of death as spoken to by Dr.Kalanjiyarani [PW11] is that the deceased died due to strangulation.

4. Heard Mr.Mr.Silambu Selvan, learned counsel for the petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing for the respondent/State.

5. The case of the prosecution hinges upon circumstantial evidence. The important piece of evidence that was relied upon by the prosecution was the last seen theory which was spoken to by Ramalingam [PW13] and Nataraj [PW14]. On going through the evidence of Ramalingam [PW13] and Nataraj [PW14], it is seen that the accused were not seen along with the deceased and the evidence of these two witnesses at the best only brings out the fact that they saw the accused person going from Vilankattuvalasu to Sivagiri Salai in his TVS XL motor bike. The learned counsel for the petitioner submitted that the evidence of Ramalingam [PW13] and Nataraj [PW14] does not establish the last seen theory as projected by the prosecution and hence, this important chain of circumstance has not been



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proved by the prosecution.

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6. The petitioner has raised substantial grounds in the appeal which require detailed appraisal. Moreover, the petitioner has been in incarceration for nearly two years. Further, the appeal is not likely to be taken up in the near future. In such view of the matter, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail.

7. Accordingly, the relief of suspension of sentence and bail is granted to the petitioners 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 Sessions Court, Magalir Neethi Mandram [Fast Track Mahila Court], Egmore;
- (ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity; and
- (iii) The petitioner shall appear before the respondent/police



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everyday at 10.30 a.m. for a period of four weeks and thereafter, 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.

(P.N.P.,J.) (N.A.V.,J)
09.01.2023

rka/nsd

To

1. The Sessions Judge, Magalir Neethi Mandram
[Fast Track Mahila Court], Egmore .
2. The Superintendent of Prison,
Central Prison,
Coimbatore.
3. The Inspector of Police,
Sivagiri Police Station,
Erode District
4. The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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P.N.PRAKASH, J.

**and
N.ANAND VENKATESH.,J**

rka

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