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Crl.M.P.No.17438 of 2023 in Crl.A.No.423 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2023

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.17438 of 2023
in Crl.A.No.423 of 2021

Kumaravel
S/o Mr.Krishnan

.. Petitioner

-vs-

State of Tamil Nadu
Inspector of Police
Villupuram Taluk Police Station
Villupuram District
(Crime No.729 of 2016)

.. Respondent

Criminal Miscellaneous Petition filed under Section 389(1) of the Code of Criminal Procedure to suspend the sentence imposed in S.C.No.123 of 2017 on the file of the learned Principal Sessions Judge, Villupuram and enlarge the petitioner on bail, pending disposal of the appeal.

For Petitioner :: Mr.R.Venkatesh

For Respondent :: Mr.A.Gokulakrishnan
Additional Public Prosecutor



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ORDER

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

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The petitioner, who is Accused No.5, has filed the appeal challenging the conviction and sentence imposed by the learned Principal Sessions Judge, Villupuram in S.C.No.123 of 2017 for the offence under Section 120(B) and Section 302 readwith 120(B) of IPC and to undergo life imprisonment and also to pay a fine of Rs.50,000/-, in default to undergo simple imprisonment for 3 ½ years. Pending the appeal, he has filed the present miscellaneous petition seeking to suspend the sentence and enlarge him on bail.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and also perused the materials available on record.

3. The case of the prosecution is that on 07.10.2016, when the deceased Ayyanar along with P.W.2 and P.W.7 were travelling in a motorcycle 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



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vehicle in which the deceased was travelling and pushed down the vehicle;

that 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 his chest; that A3 & A4 kicked the deceased; that A5 punched the deceased and that the deceased sustained grievous injuries and succumbed to the injuries. The trial Court convicted all the accused/A1 to A6 and they were sentenced to life. Each of the accused has filed individual appeal(s). The petitioner/A5 has filed the present miscellaneous petition seeking to suspend the sentence during the pendency of appeal. When a bail application was moved by the 6th accused, this Court granted bail by order dated 06.10.2023 in Crl.M.P.No.15176 of 2022 in Crl.A.No.424 of 2021. Similarly, bail was granted to Accused No.3. The whole incident appears to have arisen out of a dispute between the family of victim as well as the whole villagers. Except the injuries caused by the 1st and 2nd accused, no other injury is accountable to any of the other accused by the prosecution. Except the petitioner, all other accused were granted bail. This Court, having regard to the admitted fact that the motive alleged is against the whole villagers and the other accused have been granted bail, is inclined to suspend the sentence imposed on the petitioner.



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4. Accordingly, this criminal miscellaneous petition stands allowed and the substantive sentence of imprisonment imposed on the petitioner/A5 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/- (Rupees twenty five thousand only) with two sureties, of whom one should be a blood relative, each for a likesum, to the satisfaction of the learned Judicial Magistrate, 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 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.)
03.11.2023

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To

1. The Principal Sessions Judge, Villupuram
2. The Judicial Magistrate, Villupuram
3. The Inspector of Police, Villupuram Taluk Police Station, Villupuram Dt.
4. The Superintendent, Central Prison, Cuddalore



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5. The Public Prosecutor, High Court, Madras

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AND

SUNDER MOHAN, J.

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