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Crl.M.P.No.19831 of 2022
in Crl.A.No.728 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 23.12.2022

Pronouncing orders on : 09.01.2023

CORAM :

**THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND**

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

**Crl.M.P.No.19831 of 2022
in Crl.A.No.728 of 2022**

Subramanian @ Mottaiyan

..Petitioner

Vs.

State by;
The Inspector of Police
Vadavalli Police Station
Coimbatore District.
(Crime No.217/2016)

... Respondent

Prayer : Criminal Miscellaneous Petition filed under Section 389 of Cr.P.C., to suspend the sentence imposed by the trial Court in the judgment dated 14.06.2022 made in S.C.No.174 of 2018 on the file of the Sessions Court for Trial of Bomb Blast Cases, Coimbatore and enlarge the petitioner on bail, pending disposal of the above Criminal Appeal.

For Petitioner : Mr.P.M.Duraisamy

For Respondent : Mr.R.Muniyapparaj
Additional Public Prosecutor



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ORDER

N. ANAND VENKATESH, J.

This petition has been filed seeking for suspension of sentence imposed in S.C.No.174 of 2018 by the Sessions Court for Trial of Bomb Blast Cases, Coimbatore through judgment and order dated 14.06.2022.

2.The case of the prosecution is that on 27.03.2016 at about 8.30 a.m. PW1, PW5 and deceased Manigandan were standing near a temple with their two wheeler. The petitioner is alleged to have come to the spot with a mini lorry and asked them to remove their vehicles to enable him to park his mini lorry. There was wordy quarrel and this incident enraged the petitioner and on the same day at about 4.30 p.m., the petitioner brought an wooden log and started abusing the deceased, PW1 and PW5 in filthy language and attacked them with the wooden log. The deceased sustained injuries in his head and PW5 also sustained injuries. That apart, the petitioner also drove the mini lorry with an intention to dash against PW5. The deceased Manigandan was initially taken to a private hospital and thereafter, he was shifted to the Government Hospital, Coimbatore. Ultimately, the deceased succumbed to the injuries on 29.03.2016 at about 6.00 a.m.



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3.The petitioner was convicted and sentenced by the Court below in S.C.No.174 of 2018, in the following manner:

Conviction for offence under	Sentence/Punishment
Section 302 IPC	Life imprisonment and to pay a fine of Rs.7,500/- and in default, to undergo one year rigorous imprisonment.

4.Heard Mr.P.M.Duraisamy, learned counsel appearing on behalf of the petitioner and Mr.R.Muniyapparaj, learned Additional Advocate General appearing on behalf of the respondent.

5.The case of the prosecution hinges upon the eye witness account of PW1, PW2, PW5 and PW6. It was contended that PW5, who was the injured witness, turned hostile and the presence of the other eye witness was doubtful due to factual contradictions in their evidence. This is in view of the fact that three incidents are being spoken by the eye witness on the same day, which makes the eye witness account doubtful.



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6.It was further contended that the eye witness evidence was not in line with the medical evidence. Various contradictions were also pointed out with regard to the arrest and recovery of the petitioner.

7.Considering the facts and circumstances of the case and also considering the fact that the petitioner has already suffered incarceration for a period of nearly six months and that there are arguable points involved in the appeal and further, the petitioner has no bad antecedents, we are inclined to suspend the sentence imposed by the Court below in S.C.No.174 of 2018 dated 14.06.2022, subject to 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 Court for Trial of Bomb Blast Cases, Coimbatore.
- (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 cards or Bank passbooks to ensure their identity; and
- (iii) The petitioner shall appear before the respondent police every Monday at 10.30 a.m., for a period of eight weeks. After



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completion of the said period, the petitioner shall report before the learned Sessions Court for Trial of Bomb Blast Cases, Coimbatore, 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.

Accordingly, this Criminal Miscellaneous petition is disposed of.

(P.N.P.,J.)

(N.A.V.,J.)

09.01.2023

Internet : Yes/No

Index : Yes/No

Speaking order /Non-Speaking order
ssr



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P.N.PRAKASH,J.

and

N. ANAND VENKATESH,J.

SSR

To

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

Pre-Delivery Order in
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09.01.2023