



Crl.MP.No.1184 of 2022
in Crl.A.No.264 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.1184 of 2022

in

Crl.A.No.264 of 2020

Sathiyaseelan

...Petitioner/Appellant/Sole Accused

Versus

The State Rep.by:
The Inspector of Police,
Variyur Police Station,
Thiruvannamalai District.
Crime No.145 of 2014

...Respondent/Respondent/Complainant

Prayer:- Civil Miscellaneous Petition filed under Section 389 [1] r/w 439 of Crl.P.C. to suspend the sentence imposed in S.C.No.9 of 2016 dated 09.03.2020 on the file of the Principal District and Sessions Court Tiruvannamalai and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.



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For Petitioner : Mr.S.Sathiaseelan

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor
Assisted by
Mr.C.Aravind

ORDER

[Order of the Court was made by SUNDER MOHAN, J.]

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner/sole accused by Judgment and order dated 09.03.2020 passed in SC No.9 of 2016 on the file of the Principal District and Sessions Court, Tiruvannamalai, and to enlarge the petitioner on bail pending disposal of the criminal appeal.

2. The petitioner/sole accused in the above Sessions Case, was convicted and sentenced as follows:

Offence under Section	Sentence imposed
302 of the IPC	To undergo imprisonment for life and to pay a fine of Rs.5,000/- in default to undergo rigorous imprisonment for two years.



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3. Challenging the above conviction and sentence, the petitioner/sole accused has filed the above Criminal Appeal and he seeks suspension of sentence and bail in the present petition.

4. Heard Mr.S.Sathiaselvan, learned counsel for the petitioner and Mr.E.Raj Thilak, learned Additional Public Prosecutor appearing for the respondent/State.

5. The case of the prosecution is that the petitioner/sole accused had illicit intimacy with P.W.1, who was a married lady and had two children out of the said marriage; that the husband of P.W.1 had deserted her, and thereafter, the petitioner wanted to live with P.W.1; that P.W.1 thereafter, developed an illicit relationship with P.W.16 and enraged by the said fact, the petitioner is said to have caused the death of the child of P.W.1 on 11.04.2014.



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6. Mr.S.Sathiaseelan, the learned counsel for the petitioner/sole accused submitted that the circumstances have not been conclusively established by the prosecution; and that the motive and the last seen do not conclusively prove the guilt of the petitioner as both the circumstances have not been established. Hence, he prayed for suspension of sentence for the petitioner.

7. Mr.E.Raj Thilak, the learned Additional Public Prosecutor, *per contra* submitted that P.W.1 and P.W.16 have spoken about the motive; that P.W.9/child witness and another witness had last seen the petitioner with the deceased child, which conclusively established the guilt of the petitioner; and that hence, this petition deserves to be dismissed.

8. We have carefully considered the rival submissions and perused the record.

9. The petitioner is in custody from 09.03.2020. The case is based on circumstantial evidence. Prima facie, we are of the view that there is force in



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the submission of the learned counsel for the petitioner that the circumstances have not been conclusively established to point out only to the guilt of the petitioner.

10. Considering the above facts, the period of incarceration, and that the appeal is not likely to be taken up in the near future, we are inclined to grant the relief of suspension of sentence to the petitioner herein.

11. Accordingly, this criminal miscellaneous petition stands allowed and the sentence of imprisonment is suspended and the sentence imposed on the petitioner is suspended on the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two independent sureties, each for a like sum to the satisfaction of the learned Principal District and Sessions Judge, Tiruvannamalai;

(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of



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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.

[M.S.R.,J.] [S.M.,J.]
25.03.2024

dk
Speaking/Non-Speaking order
Neutral Citation: Yes/No

Note to Registry:

1. Issue order copy by 26.03.2024

2. Upload the order forthwith.



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Copy to:-

- 1.The Principal District and Sessions Judge,
Tiruvannamalai
- 2.The The Inspector of Police,
Variyur Police Station,
Thiruvannamalai District.
- 3.The Superintendent of Prisons,
Central Prison, Vellore.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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M.S.RAMESH, J
and
SUNDER MOHAN, J
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