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Crl.M.P.No.1090 of 2024
in Crl.A.No.449 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2024

CORAM:

**THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN**

Crl.M.P.No.1090 of 2024
in Crl.A.No.449 of 2023

K. Raja

... Petitioner

Vs.

State rep. by the Inspector of Police,
H-5, New Washermanpet Police Station,
Chennai.
Crime No.555 of 2014

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of the Criminal Procedure Code, seeking to suspend the sentence of imprisonment imposed by the learned Trial Court by its judgment dated 09.03.2023 in S.C.No.76 of 2015 by the IVth Additional Sessions Judge, Chennai and enlarge the petitioner on bail, pending disposal of C.A.No.449 of 2023 on the file of this Court.

For Petitioner : Mr.J.P. Ravivarman

For Respondent : Mr.E. Raj Thilak,
Additional Public Prosecutor

ORDER



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This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed on the petitioner/fourth accused by the learned IV Additional Sessions Judge, Chennai on 09.03.2023 in S.C.No.76 of 2015 and enlarge him on bail, pending disposal of the Criminal Appeal.

2. The learned IV Additional Sessions Judge, Chennai, in S.C.No.76 of 2015, has convicted the petitioner/fourth accused and sentenced him as follows:-

<i>Accused</i>	<i>Offence</i>	<i>Sentence imposed</i>
A4	Section 302 r/w. 34 IPC	Life imprisonment and to pay a fine of Rs.1,000/-, in default to undergo simple imprisonment for six months.

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

4. Heard Mr.J.P. Ravivarman, learned counsel appearing for the



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petitioner and Mr.E. Raj Thilak, learned Additional Public Prosecutor, appearing for the respondent/Police.

5. It is the case of the prosecution that on 27.04.2014, the deceased came in an inebriated mood to his house and slashed the alcohol bottle on the wall; that since the glass pieces scattered and fell on A1, a wordy quarrel arose between the deceased and A1 to A4; that the mother of the deceased pacified them; and that on account of the said scuffle, the accused had grudge over the deceased. Consequently, on 27.04.2014, at about 21.30 hours, when the deceased was talking to his mother, the accused asked the deceased to come out of the house and that the mother of the deceased asked the accused to talk with the deceased in her presence. By that time, A3 caught hold of the deceased on his back and neck, A2 & A4 caught hold of the hands of the deceased and A1 took the knife and stabbed in the stomach of the deceased. It is also represented that A1 died during the trial.

6. By an order dated 11.01.2024 in Crl.M.P.Nos.7537 & 11878 of 2023 in Crl.A.Nos.608 & 839 of 2023, we have considered the case of A2 & A3 and granted suspension of sentence to them by making the following



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observations:-

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..... “8. We have carefully considered the rival submissions and perused the records. All the eye witnesses, except P.W.1 turned hostile. P.W.1, the mother of the victim, had disowned Ex.P1 complaint. In the cross examination she had stated that her deposition in chief was based on the information given by some third persons and she had not witnessed the occurrence. She had also stated that the accused were not known to her. We find that the prosecution had not treated this witness as hostile and cross examined this witness. Therefore, merely because the cross examination was conducted 7 years later, we cannot ignore her version in the cross examination.”

7. The aforesaid observations will squarely apply to case of the petitioner/fourth accused herein as well, as he stands on the same footing.

8. Accordingly, this Criminal Miscellaneous Petition stands **allowed** and the sentence imposed on the petitioner/fourth accused is suspended on the following conditions:-

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties each, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned IV



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Additional Sessions Judge, Chennai;

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- (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 their Aadhar card or Bank pass Book and mobile numbers to ensure their identity;
- (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.)

08.02.2024

Index: Yes/No

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Note: Issue Order Copy on 09.02.2024



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

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To

- 1.The IVth Additional Sessions Judge,
Chennai.
- 2.The Inspector of Police,
H-5, New Washermanpet Police Station,
Chennai.
- 3.The Superintendent,
Central Prison,
Puzhal, Chennai.
- 4.The Public Prosecutor,
High Court,
Madras.

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