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Crl.MP.No.1700 of 2024
in Crl.A.No.350 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.1700 of 2024
in
Crl.A.No.350 of 2020

Lakshmanan

...Petitioner/Appellant/A1

Versus

State Rep. by
The Inspector of Police,
Reddichavadi Police Station,
Cuddalore District.
(Crime No.107 of 2016)

...Respondent/Respondent

Prayer:- Criminal Miscellaneous Petition filed under Section 389 [1] of the CrI.P.C., 1973, to suspend the sentence and grant bail to the petitioner/appellant for the conviction and sentence imposed in S.C.No.164 of 2016 dated 30.06.2020 by the first Additional District and Sessions Judge, Cuddalore, pending disposal of the above said Criminal Appeal.



WEB COPY



Crl.MP.No.1700 of 2024
in Crl.A.No.350 of 2020

For Petitioner : Mr.R.Thamaraiselvan

For Respondent : Mr.A. Gokulakrishnan
Additional Public Prosecutor

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 by Judgment and order dated 30.06.2020 passed in S.C.No.164 of 2016 on the file of the learned I Additional District and Sessions Judge, Cuddalore, and to enlarge the petitioner on bail pending the disposal of the criminal appeal.

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

Offence under Section	Sentence imposed
148 IPC	To undergo rigorous imprisonment for two years and to pay a fine of Rs.500/- in default to undergo simple imprisonment for two weeks.
449 IPC	To undergo three years rigorous



Crl.MP.No.1700 of 2024
in Crl.A.No.350 of 2020

	imprisonment for three years and to pay a fine of Rs.500/- in default to undergo simple imprisonment for a period of two weeks.
302 IPC	To undergo life imprisonment and to pay fine of Rs.3,000/- in default to undergo six months simple imprisonment (2 counts)
Both sentences shall run concurrently	

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

4. Heard Mr.R.Thamaraiselvan, the learned counsel for the petitioner and Mr.A.Gokulakrishnan, the learned Additional Public Prosecutor appearing for the respondent/State.

5. The case of the prosecution is that six months before the occurrence, two deceased persons namely Vinothkmar and Sathish were riding in a rash and negligent manner in a public road which was objected by onlookers, including the petitioner herein; that hence the deceased persons



Crl.MP.No.1700 of 2024
in Crl.A.No.350 of 2020

had a wordy quarrel with the petitioner; and that the petitioner therefore decided to do away with the deceased with the help of henchmen; that on 21.05.2016 at about 08.00 a.m., the petitioner along with others formed an unlawful assembly and caused the death of the two deceased persons with dangerous weapons like iron pipes and knives.

6. The learned counsel for the petitioner submitted that the petitioner is in custody from 28.08.2020 and all the co-accused had been released on bail by the order of this Court in Crl.M.P.Nos.3868 of 2023, 6845 of 2023 and 7750 of 2020 dated 27.07.2023 and submitted that his case is also similar and prayed for suspension of sentence.

7. The learned Additional Public Prosecutor *per contra* submitted that the petitioner was arrayed as A1 and it was at his instigation, the occurrence took place. Therefore, the trial Court was right in convicting the petitioner and prayed for dismissal of the petition.

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



Crl.MP.No.1700 of 2024
in Crl.A.No.350 of 2020

records.

WEB COPY

9. Admittedly, the petitioner is in custody from 28.08.2020, and the co-accused have been released on bail by the order of this Court dated 27.07.2023. We are of the *prima facie* view that the reasons assigned by the Co-ordinate Bench of this Court for releasing the other co-accused on bail would apply to the petitioner as well.

10. Considering the above and the fact that the petitioner is in custody from 28.08.2020 and 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,



WEB COPY



Crl.MP.No.1700 of 2024
in Crl.A.No.350 of 2020

each for a like sum to the satisfaction of the learned
Judicial Magistrate No.II, Cuddalore;

(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; 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.]
28.06.2024

Anu

Note: Issue order copy by 03 .07.2024

Copy to:-

1.The Judicial Magistrate No.II,
Cuddalore.



Crl.MP.No.1700 of 2024
in Crl.A.No.350 of 2020

2.The Inspector of Police,
Reddichavadi Police Station,
Cuddalore District.

3.The Superintendent of Prisons,
Central Prison, Cuddalore.

4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



WEB COPY



Crl.MP.No.1700 of 2024
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and
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Crl.MP.No.1700 of 2024
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