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Crl.MP.No.2097 of 2024
in Crl.A.No.166 of 2024

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.2097 of 2024

in

Crl.A.No.166 of 2024

Murugaiya

...Petitioner/Appellant

Versus

The Inspector of Police,
Vishnu Kanchi Police Station,
Kancheepuram.
Crime No.246 of 2013

...Respondent/Complainant

Prayer:- Criminal Miscellaneous Petition filed under Section 389 [1] of the CrI.P.C., to suspend the sentence imposed on the petitioner in S.C.No.69 of 2015 on 24.10.2018 on the file of the learned Sessions Judge – II, Kanchipuram and enlarge the petitioner on bail pending the disposal of the Criminal Appeal.

For Petitioner : Mr.M.Mohamed Saifulla
For Respondent : Mr.A. Gokulakrishnan
Additional Public Prosecutor



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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 24.10.2018 passed in S.C.No.69 of 2015 on the file of the learned Sessions Judge – II, Kanchipuram, and to enlarge the petitioner on bail pending the disposal of the criminal appeal.

2. The petitioner in the above Sessions Case, was convicted for the offence under Section 302 of the IPC and sentenced to undergo imprisonment for life and to pay a fine of Rs.5,000/- in default to undergo six months of rigorous imprisonment.

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.M.Mohamed Saifulla, the learned counsel for the



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petitioner and Mr.A.Gokulakrishnan, the learned Additional Public Prosecutor appearing for the respondent/State.

5. The case of the prosecution is that the deceased and the accused/ petitioner were friends and living together; that the deceased had borrowed a sum of Rs.50,000/- (Rupees Fifty Thousand Only) from the petitioner; that the deceased refused to repay the same; that on 12.02.2013, on account of the said dispute, the deceased and the petitioner had a wordy quarrel; and that pursuant to the said quarrel, the petitioner is said to have attacked the deceased with an iron rod in his face, as a result of which the deceased died.

6. The learned counsel for the petitioner submitted that the petitioner is in custody from 09.06.2018 ; that the extra judicial confession given by the petitioner to P.W.3 suggests that there was a quarrel between the petitioner and the deceased; and that the occurrence took place in the heat of passion. Hence, he prayed for suspension of sentence.

7. The learned Additional Public Prosecutor, *per contra* submitted that



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the case has been established through the evidence of P.W.1, P.W.3 and other circumstances; and that there is no infirmity in the judgment of the trial Court. Hence, he prayed for dismissal of the petition.

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

9. Admittedly, the petitioner is in custody from 09.06.2018. On a reading of the evidence of P.W.3, it is seen that the petitioner had stated to P.W.3 that there was a wordy quarrel since the deceased refused to repay the loan amount taken from him. The evidence of P.W.3 further suggests that the occurrence took place in the heat of passion. In such circumstances, it has to be considered whether the act of the petitioner would constitute the offence of murder.

10. Considering the above and the fact that the petitioner is in custody from 09.06.2018 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



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petitioner herein.

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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 Sessions Judge – II, Kanchipuram;

(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.



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[M.S.R.,J.] [S.M.,J.]
28.06.2024

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Note: Issue order copy by **02.07.2024**

Copy to:-

- 1.The Sessions Judge – II,
Kanchipuram.
- 2.The Inspector of Police,
Vishnu Kanchi Police Station,
Kancheepuram.
- 3.The Superintendent of Prisons,
Central Prison Puzhal.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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and
SUNDER MOHAN, J
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