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Crl.MP.No.2320 of 2024
in Crl.A.No.170 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.05.2024

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

AND

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

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in Crl.A.No.170 of 2024

Kumar

...Petitioner/Sole accused

Vs.

State

Represented by the Inspector of Police

V-1, Villivakkam Police Station,

Chennai District,

(Crime No.23 of 2021)

... Respondent/Complainant

Prayer :- Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C. to suspend the conviction and sentences imposed on the petitioner/appellant made in S.C. No.223 of 2022 dated 08.09.2023 on the file of the I-Additional Sessions Judge, City Civil Court, Chennai and to release the petitioner on bail.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor



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ORDER

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(Order of the Court was made by A.D.JAGADISH CHANDIRA, J.)

This Criminal Miscellaneous Petition has been filed to suspend the conviction and sentences imposed on the petitioner/appellant made in S.C. No.223 of 2022 dated 08.09.2023 on the file of the I-Additional Sessions Judge, City Civil Court, Chennai and to release the petitioner on bail.

2. The learned I-Additional Sessions Judge, City Civil Court, Chennai, in S.C. No.223 of 2022, convicted and sentenced the petitioner herein as follows:

<i>Offence</i>	<i>Sentence imposed</i>
Section 302 of the IPC	Life imprisonment and to pay a fine for a sum of Rs.10,000/- in default to undergo simple imprisonment for a period of 2 years

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



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4. Heard Mr.C.Prabakaran, learned Counsel appearing for the petitioner and Mr.A.Gokulakrishnan, learned Additional Public Prosecutor, appearing for the respondent/State.

5. The learned counsel for the petitioner/appellant would submit that the victim is none other than the father-in-law of the petitioner. Even as per the prosecution, the alleged incident is said to have been taken place during the quarrel. P.W.1, the daughter of the victim and wife of the petitioner and P.W.2, the daughter of the petitioner, who is said to have witnessed the occurrence, have turned hostile and not supported the case of the prosecution. The other important witnesses viz.,P.Ws.4 to P.W.10 have also turned hostile, whereas the trial Judge, without there being any legal evidence, had convicted the petitioner/appellant. He would further submit that even as per the prosecution, the offence is said to have happened during the quarrel between the petitioner/appellant and his father-in-law and excepting a single injury there is no other injury. The alleged occurrence is also said to have been taken place due to grave and sudden provocation and there was no intention on the part of the petitioner/appellant to commit the



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murder of his father-in-law. He would further submit that the petitioner was on bail during the trial and thereby, seeks for the suspension of sentence.

6.The respondent has filed a detailed counter.

7.The learned Additional Public Prosecutor would submit that the petitioner/appellant had committed the murder of his father-in-law. Though P.W.2, the daughter of the petitioner, had not supported the case of the prosecution, her evidence cannot be effaced and that she had spoken about the presence of the petitioner in the house at the time of occurrence and the trial Court, finding that no proper explanation has been given by the petitioner, had rightly found the accused guilty. The burden is on the accused to explain the injuries on the victim and thereby, he would oppose for grant of bail.

8.It is a case of murder of a father-in-law by his son-in-law. The main witnesses have turned hostile and they have not supported the case of the prosecution. It is the case of the learned counsel for the petitioner/appellant



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that the petitioner had no intention to commit the murder of his father-in-law.

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9. We have carefully considered the rival submissions and perused the records. Taking into consideration the period of incarceration, this Court is inclined to suspend the sentence. We are inclined to suspend the sentence on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties, each for a like sum to the satisfaction of the learned XIII Metropolitan Magistrate Court, Egmore, Chennai.
- (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 further orders and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an



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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.

(A.D.C., J.) (R.K.M., J.)
08.05.2024
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mrn/dpq/raa

Internet : Yes

Index : Yes / No

To

1. The I Additional Sessions Judge,
City Civil Court, Chennai.
2. The XIII Metropolitan Magistrate Court,
Egmore, Chennai.
3. The Inspector of Police
V-1, Villivakkam Police Station,
Chennai District, (Crime No.23 of 2021)
4. The Superintendent,
Central Prison, Puzhal.
5. The Public Prosecutor,
High Court, Madras.



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