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Crl.MP.No.1560 of 2023 in Crl.A.No.122 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.1560 of 2023
in Crl.A.No.122 of 2023

Murugan

...Petitioner/Sole accused

Vs.

State by:

Inspector of Police,
H-6, R.K.Nagar Police Station,
Chennai-21 (Crime No.158 of 2013)

... Respondent

Prayer :- Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence imposed on the petitioner by the learned III Additional Sessions Judge, City Civil Court, Chennai in S.C.No.21 of 2014 dated 30.11.2022 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.Dinesh
for Mr.K.C.S.K.Balaji

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



ORDER

WEB COPY (Order of the Court was delivered by **SUNDER MOHAN, J.**)

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner/sole accused by the learned III Additional Sessions Judge, City Civil Court, Chennai in S.C.No.21 of 2014 dated 30.11.2022 and enlarge him on bail pending disposal of the above Criminal Appeal.

2. The learned III Additional Sessions Judge, City Civil Court, Chennai in S.C.No.21 of 2014, convicted the petitioner herein and sentenced him as follows:

Accused (A1)	Offence	Sentence Imposed
	302 IPC	To undergo life imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo two months simple 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 miscellaneous petition.

4. It is the case of the prosecution that the deceased was the President of Jeeva Nagar, Koruttupet and Circle Secretary of 47th Ward and he mediated the dispute between two groups of persons and settled the dispute and that the



petitioner, who was aggrieved by the action taken by the deceased, questioned the deceased as to how he could mediate the dispute and attacked the deceased with knife indiscriminately and caused the death of the deceased.

5. Learned counsel for the petitioner submits that there are several infirmities in the prosecution case and that the prosecution has suppressed the genesis and origin of the occurrence; that the deceased was admitted in a private hospital and the doctor, who treated the deceased, made entries in the hospital records, stated that when the deceased was admitted, it was informed to him that the deceased was attacked by unknown persons which is contrary to the prosecution case. The learned counsel further submitted that the accused is in custody from 30.11.2022, the sentence imposed on him may be suspended.

6. Per contra, the learned Additional Public Prosecutor submits that there are eyewitness to the occurrence, whose evidence, including the son of the deceased has not been discredited and the trial Court has rightly convicted the petitioner for the offence and prayed for dismissal of the petition.



WEB COPY 7. We have carefully analysed the rival submissions and perused the records.

8. We find that the petitioner has examined D.W.1 the doctor, who first examined the deceased and declared him dead. He has deposed that he made entries in the hospital records that the person who admitted the deceased had informed him that some unknown persons had attacked the deceased. It is the prosecution case that the petitioner was known to the deceased and he is the sole accused. The entry made by D.W.1 in the hospital records is therefore contrary to the prosecution case.

9. Considering the above said facts and also taking note of the fact that the petitioner is in custody from 30.11.2022 and since the present appeal is not likely to be taken up for hearing in the near future, we are inclined to suspend the sentence.

10. At this juncture, the learned Additional Public Prosecutor submits that if the petitioner is allowed to reside in the area, where the occurrence took place, there is likely to be disturbance of law and order.



Crl.MP.No.1560 of 2023 in Crl.A.No.122 of 2023

WEB COPY

11. In view of the above, we are suspending the sentence on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only), with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned XV Metropolitan Magistrate, George Town, 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 stay at Madurai and report before the Station House Officer, Thallakulam Police Station on every Monday at 10.30 a.m., until further orders.

(M.S.R., J.) (S.M., J.)
05.02.2024

sr
Internet : Yes
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M.S.RAMESH, J.
and
SUNDER MOHAN, J.

SR

To

1. III Additional Sessions Judge, City Civil Court, Chennai
2. The Inspector of Police,
H-6, R.K.Nagar Police Station,
Chennai-21 (Crime No.158 of 2013)
3. The Superintendent,
Central Prison, Puzhal
4. The Public Prosecutor,
High Court, Madras.

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