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Crl.MP.No.2109 of 2023
in Crl.A.No.147 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.2109 of 2023
in Crl.A.No.147 of 2023

Praveen Kumar

...Petitioner/Accused No.1

Vs.

The State Represented by its
Hosur Town Police Station
Krishnagiri District
(Cr.No.1235/2013)

... Respondent/Complainant

Prayer :- Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence imposed on the petitioner by the learned Additional District and Sessions Judge, Hosur, Krishnagiri, in S.C. No.15 of 2019 dated 12.12.2022 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.P. Govindarajan
For Respondent : Mr.E. Raj Thilak
Additional Public Prosecutor
Assisted by Mr. Aravind, C.



WEB COPY



Crl.MP.No.2109 of 2023
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ORDER

(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/A1, by the learned Additional District and Sessions Judge, Hosur, in S.C.No.15 of 2019, by the judgment dated 12.12.2022, and enlarge him on bail pending disposal of the above Criminal Appeal.

2. The learned Additional District and Sessions Judge, Hosur,, in S.C.No.15 of 2019, convicted the petitioner herein/A1 and sentenced him as follows:

Accused (A1)	Offence	Sentence Imposed
	302 IPC r/w 34 IPC, 235 (i) Cr.P.C	To undergo life imprisonment and to pay a fine of Rs.1,00,000/-, out of which Rs.90,000/- to be paid as compensation to P.W.4 Ramanathan under Sec.357 (1) (b) CrP.C., in default, to undergo one year Simple imprisonment.



Crl.MP.No.2109 of 2023
in Crl.A.No.147 of 2023

3.Challenging the above conviction and sentence, the petitioner/A1, has filed the above Criminal Appeal and he seeks suspension of sentence and bail in the present miscellaneous petition.

4.Heard Mr.P. Govindarajan, learned Counsel appearing for the petitioner and Mr.E. Raj Thilak, learned Additional Public Prosecutor, appearing for the respondent/State.

5. The case of the prosecution is that the deceased and the appellant were students of Architecture studying in Adhiyaman College in Hosur; that the appellnat had prior enmity since the deceased was trying to be close to a girl in the college with whom the appellant had a liking and that on account of the said enmity, on 5.6.2013, at about 2.30 hours, the appellant with his friend had caused the death of the decased by stabbing him with a knife.

6. The learned counsel for the petitioner submitted that the case is based on circumstantial evidence and that the prosecution had not proved the circumstances conclusively and in any case the circumstances did not



Crl.MP.No.2109 of 2023
in Crl.A.No.147 of 2023

conclusively establish the involvement of the accused in the alleged offence.

WEB COPY

7. The learned Public Prosecutor, per contra, submitted that the prosecution had established all the circumstances and the trial court rightly found the petitioner and A2 guilty of the offences and therefore, the petitioner is not entitled for suspension of sentence.

8. We have carefully analysed the rival submissions and perused the records. We find that the prosecution case rests on circumstantial evidences. P.W.6 is said to have seen the petitioner and A2 coming out of the house where the deceased lived. P.W.6 is the landlord, who is living in the ground floor of the same apartment. However, P.W.1, husband of P.W.6, while giving complaint, has not deposed about this fact and had infact stated in the complaint that some unknown person had caused the death of the deceased. Further, we find that P.W.6 was not examined immediately after the occurrence. Therefore, the version of P.W.6 is doubtful. The prosecution had also not proved the motive conclusively, though P.W.10 was examined to establish the same. Therefore, for the above reasons, we find that the appellant has a fair chance of succeeding in



Crl.MP.No.2109 of 2023
in Crl.A.No.147 of 2023

the appeal. However, we make it clear that the above observations made are our prima facie view. Considering the above and the fact that the appellant is in incarceration since 12.12.2022 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 on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Hosur.
- (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



WEB COPY



Crl.MP.No.2109 of 2023
in Crl.A.No.147 of 2023

any other day in lieu of the date of his absence, as directed by
the trial Court.

(M.S.R., J.) (S.M., J.)
19.01.2024

bga

Internet : Yes

Index : Yes / No

Note to office : Issue Order Copy on 22.01.2024
Upload the order copy forthwith



Crl.MP.No.2109 of 2023
in Crl.A.No.147 of 2023

To

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1. The Judicial Magistrate No.II, Hosur.
2. The State Represented by its
Hosur Town Police Station
Krishnagiri District
(Cr.No.1235/2013)
3. The Superintendent,
Central Prison, Vellore
4. The Public Prosecutor,
High Court, Madras.



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Crl.MP.No.2109 of 2023
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M.S.RAMESH, J.
and
SUNDER MOHAN, J.

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Crl.MP.No.2109 of 2023
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