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Crl.MP.No.2940 of 2023  
in Crl.A.No.1116 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH  
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.2940 of 2023  
in  
Crl.A.No.1166 of 2022

Anbu @ Anbalagan,

Versus

...Petitioner/Appellant

The Inspector of Police  
Roshanai Police Station  
Roshanai, Villupuram District  
(Crime No.376 of 2017)

...Respondent/Respondent

Prayer:- Criminal Miscellaneous Petition filed under Section 389 [1] of CrI.P.C. to suspend the judgment of conviction and sentence imposed in S.C.No.45 of 2018 dated 15.09.2022 on the file of II Additional District and Sessions Judge, Tindivanam and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.AR.Karthik Lakshmanan  
For Respondent : Mr.E.Raj Thilak  
Additional Public Prosecutor  
Assisted by  
Mr.C.Aravind

**ORDER**



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[Order of the Court was made by SUNDER MOHAN, J.]

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This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner/accused by Judgment and order dated 15.09.2022 passed in SC No.45 of 2018 on the file of II Additional District and Sessions Judge, Tindivanam, and to enlarge the petitioner on bail pending disposal of the criminal appeal.

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

| Offence under Section | Sentence imposed                                                                                                                |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------|
| 302 of the IPC        | To undergo imprisonment for life and to pay a fine of Rs.1,05,000/- in default to undergo rigorous imprisonment for six months. |

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

4. Heard Mr.AR.Karthik Lakshmanan, learned counsel for the



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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 along with the witnesses formed a Cricket team and used to play Cricket during Sundays in the vacant ground at the backside of a school in Tindivanam; that the accused and his friends also had a team and both the teams used to play against each other; that on 28.05.2017 at about 4.00 p.m., there was a wordy quarrel between the deceased and the accused, with regard to an issue in the cricket ground, the deceased slapped the accused in his cheek and aggrieved by the said act of the deceased at about 6.30 p.m., the accused picked up another quarrel with the deceased, the deceased attacked the accused with a stump; that thereafter, the accused with a knife stabbed the deceased on his chest.

6.(i) The learned counsel for the petitioner/accused, submitted that even according to the prosecution, the deceased was the aggressor; that in any case, the evidence of eyewitnesses, P.W.2 to P.W.6 cannot be believed as their presence is ruled out as per the evidence P.W.8 and P.W.9 who took



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the deceased to the hospital. The learned Counsel for the petitioner further submitted that it is a case of single stab injury, as could be seen from the evidence of Doctor P.W.22. Hence, he prayed for suspension of sentence for the petitioner.

7. Mr.E.Raj Thilak, the learned Additional Public Prosecutor appearing for the respondent, *per contra* submitted that the evidence of eye witnesses P.W.2 to P.W.6 are cogent and convincing and submitted that the petitioner has not made out any case for suspension of sentence.

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

9. On perusal of records, we find that P.W.8 and P.W.9 were the persons who took the deceased to the hospital. P.W.8 was the employer of the deceased. He came to the scene of the occurrence on receiving information that the deceased was attacked. P.W.8 would state that none of the witnesses P.W.2 to P.W.6 were present at the scene of the occurrence and they came there subsequently. Further even according to the



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prosecution, the deceased first assaulted the accused on his head with a cricket stump and had provoked the accused. The Doctor also would state that the injuries on the deceased could have been caused due to a single stab.

10. Considering the above facts, the period of incarceration, and that 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, each for a like sum to the satisfaction of the learned II Additional District and Sessions Judge, Tindivanam;

(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



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(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.]  
27.03.2024

dk  
Speaking/Non-Speaking order  
Neutral Citation: Yes/No

Note to Registry:

**1. Issue order copy by 28.03.2024**

**2. Upload the order forthwith.**

Copy to:-

- 1.The II Additional District and Sessions Judge,  
Tindivanam.
- 2.The Inspector of Police  
Roshanai Police Station  
Roshanai, Villupuram District.
- 3.The Superintendent of Prisons,



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Central Prison, Cuddalore.

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



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M.S.RAMESH, J  
and  
SUNDER MOHAN, J  
*dk*

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