



WEB COPY



Crl.MP.No.2870/2023 in Crl.A.No.192/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 19.01.2024

PRONOUNCED ON : 22.01.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.2870/2023 in Crl.A.No.192/2023

Manikandan .. Petitioner/sole accused

Versus

State rep.by
The Inspector of Police
Tiruppur South Police Station,
Tiruppur District.
(Cr.No.136 of 2021) .. Respondent

Prayer:- Civil Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence imposed in S.C.No.80 of 2022 dated 09.01.2023 on the file of the learned Principal Sessions Judge, Tiruppur and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.M.Vignesh
for Mr.C.S.Saravanan
For Respondent : Mr.E.Raj Thilak



Crl.MP.No.2870/2023 in Crl.A.No.192/2023

Additional Public Prosecutor

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 by judgment and order dated 09.01.2023 passed in SC No.80 of 2022 on the file of the learned Principal Sessions Judge, Tiruppur, and to enlarge the petitioner on bail pending disposal of the appeal.

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

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

4. Heard the learned counsel 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 petitioner and the deceased



Crl.MP.No.2870/2023 in Crl.A.No.192/2023

were friends; that the deceased had borrowed a loan of Rs.1,00,000/- and had been spending lavishly and was constantly demanding from the petitioner; that the deceased demanded Rs.10,000/- for purchase of mobile phone for his wife; and that upset with the conduct of the deceased, the appellant came to the house of the deceased on 30.01.2021 and took the deceased in a two wheeler belonging to the deceased to the petitioner's company premises and thereafter, caused the death of the deceased by stabbing him with a knife. Hence, a case was registered in Crime No.136 of 2021, against the petitioner/accused, for the offence under Section 302 of the IPC.

6. The learned counsel for the petitioner submitted that the case is based on circumstantial evidence. The fact that the deceased went with the petitioner on the day of occurrence has not been established by the prosecution. The evidence of PW6 and PW7, who speak to the fact that the deceased went along with the petitioner in a bike is contrary to the evidence of PW14, that they went in some other bike. The learned counsel submitted that the motive alleged by the prosecution is weak and the evidence of last



Crl.MP.No.2870/2023 in Crl.A.No.192/2023

seen cannot be believed. Hence, he prayed that the sentence imposed on the petitioner may be suspended.

7. The learned Additional Public Prosecutor *per contra* submitted that the case is established by the prosecution beyond reasonable doubt; that there is no infirmity with the finding of the trial Court; and thus prayed for dismissal of this petition.

8. We have carefully considered the rival submissions and perused the records. The case is based on circumstantial evidence. The prosecution relies upon the circumstances of motive and last seen together to substantiate their case. On perusal of records, we find that the evidence of PW6 and PW7, the witnesses who had allegedly last seen the petitioner with the deceased is contrary to the evidence of PW14, the wife of the deceased. The motive alleged by the prosecution *prima facie* appears to be not truthful.

9. For the above said reasons, we are of the view that the petitioner has a fair chance of success in the appeal. However, it is made clear that the



Crl.MP.No.2870/2023 in Crl.A.No.192/2023

above observations are only an expression of our *prima facie* view. The petitioner is in custody from 09.01.2023 and taking into consideration the fact that the appeal is not likely to be taken up for final hearing in the near future, we are of the considered view that it is a fit case to grant the relief of suspension of sentence to the petitioner herein.

10. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence of imprisonment is **suspended** 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 Principal Sessions Judge, Tiruppur;
- (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



WEB COPY



Crl.MP.No.2870/2023 in Crl.A.No.192/2023

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.

[MSRJ] [SMJ]
22.01.2024

ars
Speaking/Non-Speaking order
Neutral Citation: Yes/No
Issue order copy by 24.01.2024
Upload the order forthwith.



Crl.MP.No.2870/2023 in Crl.A.No.192/2023

To

- 1.The Principal Sessions Judge,
Tiruppur.
- 2.The Inspector of Police,
Tiruppur South Police Station,
Tiruppur District.
- 3.The Superintendent of Prisons,
Central Prison, Coimbatore.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



WEB COPY



Crl.MP.No.2870/2023 in Crl.A.No.192/2023

M.S.RAMESH, J

and

SUNDER MOHAN, J

ars

Pre-delivery order in
Crl.MP.No.2870/2023
in Crl.A.No.192/2023

22.01.2024