



Crl.M.P.No.5082 of 2024 in Crl.A.No.212 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.5082 of 2024
in Crl.A.No.212 of 2024

S.Khadher Basha

.. Petitioner

-vs-

State by:

The Inspector of Police
Selaipur Police Station
Kanchipuram District
(Crime No.961 of 2013)

.. Respondent

Criminal Miscellaneous Petition filed under Section 389(1) of the Code of Criminal Procedure to suspend the sentence imposed in S.C.No.239 of 2013 dated 03.11.2023 by the Principal Sessions Court, Kanchipuram District at Chengalpattu and enlarge the petitioner on bail, pending disposal of the appeal.

For Petitioner :: Mrs.S.Nadhiya

For Respondent :: Mr.S.Raja Kumar
Additional Public Prosecutor



ORDER

(Order of the Court was made by S.M.SUBRAMANIAM, J.)

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The petitioner/sole accused stands convicted for the offence under Section 302 of IPC and was sentenced to undergo imprisonment for life along with fine of Rs.10,000/-, in default to undergo simple imprisonment for six months, vide the judgment dated 03.11.2023 passed by the learned Principal Sessions Judge, Kanchipuram District at Chengalpattu. Challenging the said conviction and sentence, the petitioner/appellant has preferred the appeal. Pending the appeal, the petitioner has taken out the instant miscellaneous petition seeking to suspend the sentence and enlarge him on bail.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

3. We have perused the materials available on record. The conviction by the trial Court is based on circumstantial evidence. Since the incriminating circumstances projected by the prosecution is not complete to connect the accused in the commission of the offence as per the arguments advanced by the petitioner's counsel and there is an arguable point with



reference to the circumstances that led to the conviction of the accused and also considering the fact that the accused is in jail for a period of one year, we are inclined to suspend the sentence imposed on the petitioner/accused.

4. Accordingly, this criminal miscellaneous petition stands allowed and the substantive sentence of imprisonment imposed on the petitioner is suspended and he is granted bail 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 independent sureties, each for a likesum, to the satisfaction of the learned Principal Sessions Judge, Kanchipuram District at Chengalpattu.
- (ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Sessions Judge 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.

(S.M.S.,J.) (V.S.G.,J.)
30.10.2024

SS



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To

1. The Principal Sessions Judge, Kanchipuram District at Chengalpattu
2. The Inspector of Police, Selaiyur Police Station, Kanchipuram District
3. The Superintendent, Central Prison-I, Puzhal, Chennai
4. The Public Prosecutor, High Court, Madras



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S.M.SUBRAMANIAM, J.

AND

V.SIVAGNANAM, J.

SS

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