



WEB COPY



Crl.M.P.No.4162 of 2024 in Crl.A.No.276 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2024

CORAM

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

Crl.M.P.No.4162 of 2024
in Crl.A.No.276 of 2024

Ajithkumar
S/o Madhan

.. Petitioner

-vs-

State represented by
The Inspector of Police
Vellore North Police Station
Vellore
(Crime No.231 of 2021)

.. Respondent

Criminal Miscellaneous Petition filed under Section 389(1) of the Code of Criminal Procedure to suspend the sentence imposed in S.C.No.224 of 2021 by the learned I Additional District and Sessions Judge, Vellore dated 05.01.2024 and enlarge the petitioner on bail, pending disposal of the appeal.

For Petitioner :: Mr.R.Vivekananthan

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



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ORDER

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

The petitioner/sole accused stands convicted for the offence under Sections 302 & 506(i) of IPC and was sentenced to undergo imprisonment for life along with fine of Rs.1,000/- for the offence under Section 302 of IPC and to undergo one year simple imprisonment along with fine of Rs.500/-, in default to undergo one month simple imprisonment for the offence under Section 506(i) of IPC, which are ordered to run concurrently, vide the judgment dated 05.01.2024 passed by the learned I Additional District and Sessions Judge, Vellore. Challenging the said conviction and sentence, he 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. The learned counsel appearing for the petitioner submitted that the incident occurred due to sudden provocation, as the deceased criticised the accused that a transgender is going. The learned counsel submitted that the prosecution has failed to establish the guilt of the accused by examining any independent witness, except P.Ws.1 & 2, who are the father and sister-



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in-law of the deceased, as the other witnesses have turned hostile. Since the petitioner is in jail from 05.01.2024, he sought for suspension of sentence.

3. We have heard the learned Additional Public Prosecutor appearing for the respondent and also perused the materials available on record.

4. Considering the fact that the trial Court has convicted the petitioner/accused relying upon the evidence of P.Ws.1 & 2, who are interested witnesses and there is an arguable point in the appeal that the incident occurred due to sudden provocation and also the fact that the petitioner is in incarceration from 05.01.2024, we are of the opinion that a prima facie case has been made out by the petitioner for suspension of sentence.

5. 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 Judicial Magistrate No.IV,



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Vellore.

- (ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate 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.)
11.09.2024

SS

To

1. The I Additional District & Sessions Judge, Vellore
2. The Judicial Magistrate No.IV, Vellore
3. The Inspector of Police, Vellore North Police Station, Vellore
4. The Superintendent, Central Prison, Vellore
5. The Public Prosecutor, High Court, Madras



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S.M.SUBRAMANIAM, J.

AND

V.SIVAGNANAM, J.

SS

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