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Crl.M.P.No.4258 of 2024 in
Crl.A.No.283 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2024

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

Crl.M.P.No.4258 of 2024
in Crl.A.No.283 of 2024

Stanley Jones, (M/A 52)
s/o Lawrence

... Petitioner

Vs.

Inspector of Police,
R-4, Pondy Bazaar Traffic Police Station,
Chennai 600 017.

... Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389(1) of Code of Criminal Procedure, to suspend the sentence imposed on the petitioner in S.C.No.492/2023, dated 26.02.2024 by the learned I Additional Sessions Judge, City Civil Court, Chennai and to enlarge the petitioner on bail pending disposal of the criminal appeal.

For Petitioner : Mr.G.Ravikumar

For Respondent : Mr.S.Rajakumar,
Addl. Public Prosecutor.



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ORDER

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This petition has been filed to suspend the sentence imposed on the petitioner in S.C.No.492/2023, dated 26.02.2024 by the learned I Additional Sessions Judge, City Civil Court, Chennai and to enlarge him on bail pending disposal of the above Criminal Appeal.

2. The petitioner has been convicted by the Trial Court in S.C.No.492/2023 for the offences under Sections 279, 304(ii) IPC and Section 185 of the Motor Vehicles Act 1988 and he was sentenced as under:

Charges	Punishment
U/s.279 IPC	Convicted and sentenced to undergo RI for 3 months, with a fine of Rs.500/-, i/d to undergo SI for 15 days.
U/s. 304(ii) IPC	Convicted and sentenced to undergo RI for 3 years, with a fine of Rs.5,000/-, i/d to undergo SI for 6 months.
U/s.185 of Motor Vehicles Act	Convicted and sentenced to undergo RI for 3 months, with a fine of Rs.10,000/- , i/d to undergo SI for 15 days.

All the above substantive sentences of imprisonment were ordered to run concurrently. Challenging the same, the petitioner preferred an appeal before this Court and seek suspension of sentence.

3. The learned counsel for the petitioner submitted that, a false case



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has been registered against the petitioner stating that on 16.10.2022 at 1.30 p.m., the petitioner had driven his car in a rash and negligent manner with high speed under the influence of alcohol and he ran over one Valli, at the junction of Sivan Kovil Street and Sivan Kovil cross street at Kodambakkam, Chennai, thereby she sustained injuries and died. According to the petitioner, on that day, the petitioner along with his family members went to the puberty function of his family friends' daughter and after attending the function, they returned to their home and during that time, on the said place, the said Valli had suddenly crossed the narrow cross street and fallen on the cross street and rear side of the petitioner's vehicle and sustained injuries. Therefore, the petitioner is nothing to do with the alleged accident and he never consumed any liquor, while driving the car and on that day also had not consumed liquor. It is the contention of the petitioner that, after the accident, the petitioner and his wife alone took the injured person to Best Hospital, Kodambakkam and the doctors gave first aid treatment.

3.1. The learned counsel further submitted the place, in which the



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accident took place is a very busy area and narrow, there is no possibility to drive the vehicle with high speed as stated by the prosecution. He further submitted that PW9, Mr.Sursh, a Deputy Director, Toxicology branch of Forensic Department had given a report Ex.P9, stating that, on analysis, 121.0 mg% w/v ethyl alcohol was detected in the 2 ml blood sample. PW10, Dr.Satish Raja, working in Rajiv Gandhi Government General Hospital, Chennai had examined the petitioner and has given Ex.P10 Drunkenness Certificate, stating that, at the time, there was no mention about breath smell of alcohol.

3.2. It is contended by the learned counsel for the petitioner that, the chemical analysis report is marked as Ex.P9, which was analyzed from the sample of 2 ml blood, as per the evidence of PW9 Mr.Suresh. However, PW10, Dr.Satish Raja deposed that 10 ml of blood sent for examination. Therefore, the vital quantitative discrepancy and non production of documents like police memo, proforma requisition for chemical analysis and seal affixed in packing of blood sample, etc., clearly establishes that the Ex.P9 is unreliable evidence to connect the petitioner in this case.

3.3. It is contended by the learned counsel for the petitioner that, as



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per the order of this Court dated 07.11.2022 passed in Crl.O.P.No. 27053/2022, already the petitioner has deposited a sum of Rs.5,00,000/- and also he has undertaken to deposit a further amount of Rs.3,00,000/-, thereby, the petitioner is ready to pay a total sum of Rs.8,00,000/- to the dependents of the deceased Valli. Hence, the learned counsel seeks for suspension of sentence, pending disposal of the appeal. He further submitted that the trial Court already suspended the sentence.

4. In order to prove the case of the prosecution, the prosecution examined 12 witnesses and marked 19 exhibits and one material objects have been marked. On the defence side, one witness was examined and no document has been marked.

5. The learned Additional Public Prosecutor submitted that on 16.10.2022 at about 13.30 hours, the petitioner had driven his Toyota Innova Car bearing reg.No.TN-85-J-6700 under influence of alcohol in a rash and negligent manner at high speed and ran over one Valli at the junction of Sivan Koil Street and Sivan Koil Cross Street and she was taken to nearby



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hospital, where, she was declared as died. Hence, a case in Crime No.245/2022 was registered against the petitioner under Sections 279, 304(ii) IPC and Section 185 of Motor Vehicles Act on 16.10.2022 at 15.30 hours and after investigation, charge sheet was filed before the IV Metropolitan Magistrate and the same was taken on file as PRC No.108/2023. Thereafter, the case was committed before the I Additional Sessions Judge, City Civil Court, Chennai, wherein, it was assigned as S.C.No.492/2023 and after full trial the petitioner was convicted sentenced as stated supra.

6. Considering the submissions and also taking into account the contention of the petitioner that there is a vital quantitative discrepancy in Ex.P9 and Ex.P10 and no documents has been produced like police memo, proforma requisition for chemical analysis and seal affixed in packing of blood sample, etc., to establish that the petitioner is connected in this case, this court is of the view that the evidence needs reconsideration. The Trial Court already suspended the sentence imposed on the petitioner. Hence, this Court is inclined to suspend the sentence imposed on the petitioner.



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7. Accordingly, the relief of suspension of sentence and bail is granted on the following conditions till the disposal of the above Criminal appeal:

(a) The petitioner is ordered to be enlarged on bail, on condition that he shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, each for a like sum **to the satisfaction of the learned I Additional Sessions Judge, City Civil Court, Chennai.**

(b) The petitioner and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the learned Judge may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

(c) The petitioner shall appear before the Trial Court once in three months at 10.30 a.m. on the first working day of the month, until the disposal of the appeal and if he is not able to appear before the Trial Court on that 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 their absence as directed by the Trial Court.



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8. Accordingly, this Criminal Miscellaneous Petition is ordered.

27.03.2024

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To

1. The I Additional Sessions Judge,
City Civil Court, Chennai.
2. The Inspector of Police,
R-4, Pondy Bazaar Traffic Police Station,
Chennai 600 017.
3. The Public Prosecutor, High Court, Madras.



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M. NIRMAL KUMAR., J.

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