



WEB COPY



Crl.M.P.No.5972 of 2024
in Crl.A.No.389 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2024

CORAM:

**THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN**

Crl.M.P.No.5972 of 2024
in Crl.A.No.389 of 2024

Raji

... Petitioner

Vs.

State rep. by
The Inspector of Police,
Kallavi Police Station,
Kallavi,
Krishnagiri District.
(Crime No.29 of 2009)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of the Criminal Procedure Code, seeking to suspend the sentence passed by the learned Additional Sessions Judge, Krishnagiri, Krishnagiri District dated 16.03.2021 in S.C.No.96 of 2018 against the petitioner and enlarge the petitioner on bail, pending disposal of the criminal appeal.

For Petitioner : Mr.V.Rajamohan

For Respondent : Mr.A.Gokulakrishnan,
Additional Public Prosecutor



WEB COPY



Crl.M.P.No.5972 of 2024
in Crl.A.No.389 of 2024

ORDER

M.S.RAMESH, J.
AND
SUNDER MOHAN, J.

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed on the petitioner by the learned Additional Sessions Judge, Krishnagiri, Krishnagiri District on 16.03.2021 in S.C.No.96 of 2018 and enlarge him on bail, pending disposal of the Criminal Appeal.

2. The learned Additional Sessions Judge, Krishnagiri, Krishnagiri District in S.C.No.96 of 2018, has convicted the petitioner and sentenced him as follows:-

<i>Accused</i>	<i>Offence</i>	<i>Sentence imposed</i>
A1	Section 302 IPC	Life imprisonment along with a fine of Rs.5,000/- in default to undergo 6 months simple imprisonment.

3. Challenging the above conviction and sentence, the petitioner has



Crl.M.P.No.5972 of 2024
in Crl.A.No.389 of 2024

WEB COPY

filed the above Criminal Appeal and he seeks suspension of sentence and bail in the present miscellaneous petition.

4. Heard Mr.V.Rajamohan, learned counsel appearing for the petitioner and Mr.A.Gokulakrishnan, learned Additional Public Prosecutor, appearing for the respondent/Police.

5. It is the case of the prosecution that the deceased was the husband of the second accused and the petitioner herein/first accused is the friend of the deceased. The deceased suspected the fidelity of his wife [A2] and picked up quarrel with her on several occasions. Hence, A2 developed enmity over her husband and in order to do away with him, she sought the help of the petitioner/A1. On 24.02.2009, at about 02.30 hours, A2 under the guise of offering prayers, abducted the deceased and the petitioner/A1 also joined them. Suddenly, A2 started quarrelling with the deceased and she pushed the deceased down and strangulated him. Thereafter, both the accused had attacked the deceased with a granite stone, causing his death instantaneously.



CrI.M.P.No.5972 of 2024
in CrI.A.No.389 of 2024

WEB COPY

6. The learned counsel for the petitioner submitted that the prosecution case is based on the circumstantial evidence and the main circumstance relied upon by the prosecution is the extra-judicial confession given by the petitioner herein to the Village Administrative Officer of Panamarathupatti Village [not examined] and the deceased was last seen in the company of the accused persons by P.W.4. The learned counsel further submitted that there was no necessity for the petitioner to give a confession and hence, it is not voluntary; that the Village Administrative Officer was not examined and that since the extra-judicial confession is a weak piece of evidence and the other circumstances have not been conclusively proved to connect the accused with the crime, the sentence imposed on the petitioner may be suspended.

7. Learned Additional Public Prosecutor, vehemently opposed for grant of relief of suspension of sentence to the petitioner herein as there are specific overt acts against the petitioner herein. Further, the motive for committing the crime is also proved by the prosecution and that the prosecution has proved its case beyond reasonable doubt and hence,



Crl.M.P.No.5972 of 2024
in Crl.A.No.389 of 2024

prayed for dismissal of the petition.

8. Considering the aforesaid facts and circumstances of the case, finding considerable force in the submission of the learned counsel for the petitioner and taking into consideration the fact that the appeal is not likely to be taken up for final hearing in the near future and that the petitioner is undergoing incarceration right from 16.03.2021, we are of the considered view that it is a fit case to grant relief of suspension of sentence to the petitioner/A1.

9. Accordingly, this Criminal Miscellaneous Petition stands **allowed** and the sentence imposed on the petitioner/A1 is suspended on the following conditions:-

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Uthangarai;
- (ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety



Crl.M.P.No.5972 of 2024
in Crl.A.No.389 of 2024

bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity;

(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.)

21.06.2024

Index: Yes/No

Sni

Note: Issue Order Copy on 25.06.2024



Crl.M.P.No.5972 of 2024
in Crl.A.No.389 of 2024

WEB COPY

To

1.The Additional Sessions Judge,
Krishnagiri, Krishnagiri District.

2.The Judicial Magistrate,
Uthangarai.

3.The The Inspector of Police,
Kallavi Police Station,
Kallavi,
Krishnagiri District.

4.The Superintendent,
Central Prison,
Vellore.

5.The Public Prosecutor,
High Court,
Madras.



WEB COPY



Crl.M.P.No.5972 of 2024
in Crl.A.No.389 of 2024

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

Sni

Crl.M.P.No.5972 of 2024
in Crl.A.No.389 of 2024

21.06.2024