



Crl.M.P.No.14727 of 2022
in Crl.A.No.1096 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2024

CORAM:

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

Crl.M.P.No.14727 of 2022
in Crl.A.No.1096 of 2022

V.Rajagopal

... Petitioner

Vs.

State by
The Inspector of Police,
Veeraganaur Circle, Veeraganaur,
Salem District,
Gengavalli Police Station.
Cr.No.24/2014

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of the Criminal Procedure Code, seeking to suspend the sentence of life imprisonment imposed on the petitioner by the learned Principal Sessions Judge, Salem in S.C.No.116 of 2015 in order dated 22.08.2019 and release the accused on bail pending disposal of the appeal.

For Petitioner : Mr.S.Muthukrishnan

For Respondent : Mr.E. Raj Thilak,
Additional Public Prosecutor



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ORDER

*(Order of the Court was delivered by **SUNDER MOHAN, J.**)*

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed on the petitioner/accused by the learned Principal Sessions Judge, Salem on 22.08.2019 in S.C.No.116 of 2015 and enlarge him on bail.

2. The learned Principal Sessions Judge, Salem, in S.C.No.116 of 2015, has convicted the petitioner/accused and sentenced him as follows:-

	<i>Offence</i>	<i>Sentence imposed</i>
<i>Accused</i>	Section 302 of IPC	Rigorous imprisonment for life and to pay a fine of Rs.1,000/- in default to undergo imprisonment for 4 years.

3. Challenging the above conviction and sentence, the petitioner/accused, has filed the Criminal Appeal and he seeks suspension of sentence and bail in the present miscellaneous petition.



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4. Heard Mr.S.Muthukrishnan, learned counsel appearing for the petitioner and Mr.E.Raj Thilak, learned Additional Public Prosecutor, appearing for the respondent/Police.

5. It is the case of the prosecution that suspecting that the deceased had illicit relationship with the petitioner's wife, the petitioner attacked the deceased with wooden log on 20.01.2014 at about 9 P.M. in the house where the petitioner's wife and the petitioner were staying, which happened to be the house of the petitioner's mother in law. It is the further case of the prosecution that the deceased died next day morning at 4 A.M.

6. The learned counsel for the petitioner submitted that P.W.1 and P.W.3 could not be the eye witnesses and that the petitioner has been falsely implicated in this case. Even according to the prosecution, the alleged occurrence took place due to the grave and sudden provocation and that the petitioner is in custody since 01.08.2018 and hence, he prayed for suspension of sentence.



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7. Per contra, the learned Additional Public Prosecutor submitted that the occurrence took place in the house where the petitioner lived and therefore, the prosecution has established all the circumstances which points out towards the petitioner and hence, opposed for suspension of sentence.

8. We have perused the records carefully and considered the rival submissions.

9. According to the prosecution, the deceased had come to the house of the petitioner. Even D.W.1 - mother in law of the petitioner and D.W.2 - wife of the petitioner, have spoken about the earlier attack made by the deceased on the accused and about the attempt made by the deceased to take the wife of the petitioner out of the house. Admittedly, the petitioner is in custody since 01.08.2018.

10. Considering all the relevant facts and the period of incarceration served by the petitioner and the fact that the appeal is not likely to be taken up in the near future, we are inclined to suspend the sentence.

11. Accordingly, this Criminal Miscellaneous Petition stands **allowed**



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and the sentence imposed on the petitioner/accused is suspended on the following conditions:-

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties each, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate No.2, Attur;
- (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;
- (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.)

19.02.2024

Index: Yes/No

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Note: Issue Order Copy on 20.02.2024



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

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To

- 1.The Principal Sessions Judge,
Salem.
- 2.The Judicial Magistrate No.2,
Attur.
- 3.The Inspector of Police,
Veeraganaur Circle, Veeraganaur,
Salem District,
Gengavalli Police Station.
- 4.The Superintendent,
Central Prison,
Coimbatore.
- 5.The Public Prosecutor,
High Court,
Madras.

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