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Crl.MP.No.6758/2023 in Crl.A.No.546/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.02.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.6758/2023 in Crl.A.No.546/2023

Rahman Khan

.. Petitioner

Versus

State by

The Inspector of Police,

North Police Station,

Tiruppur.

(Crime No.1125 of 2022)

.. Respondent

Prayer:- Criminal Miscellaneous Petition filed under Section 379[1] of Cr.P.C., to suspend the sentence imposed on the petitioner in S.C.No.24 of 2023 on the file of the Principal Sessions Judge, Tiruppur, dated 11.04.2023 pending disposal of the above appeal.

For Petitioner : Mr.R.Sankarasubbu
for M/s.Murali Law Firm
For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor
assisted by



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Mr.C.Aravind

ORDER

[Order of the Court was made by SUNDER MOHAN, J]

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner vide judgement and order dated 11.04.2023 passed in S.C.No.24 of 2023 on the file of the learned Principal Sessions Judge, Tiruppur, and to enlarge the petitioner on bail pending disposal of the appeal.

2. The case of the prosecution is that the petitioner was practicing as a lawyer and used to visit the office of P.W.1, who was the Special Public Prosecutor, and fell in love with her daughter, P.W.2 and that P.W.2 did not accept his love. While so, on 22.08.2022, P.W.2 lodged a complaint against the petitioner stating that he compelled her to accept his love. Aggrieved by the complaint filed against him, the petitioner, on 18.09.2022, went to the house of P.W.1 and P.W.2 and attacked them with knives causing grievous injuries.



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3. Heard the learned counsel for the petitioner and Mr.E.Raj Thilak, the learned Additional Public Prosecutor appearing for the respondent/State.

4. Learned counsel for the petitioner submitted that even if the prosecution's case is accepted as true, the act of the petitioner would only constitute an offence under Section 326 IPC; and that he had no intention to cause the death of the victims. However, despite this, the petitioner was sentenced to life imprisonment for the offence under Section 307 IPC.

5.Learned Additional Public Prosecutor, per contra, submitted that if the petitioner is released on bail, he is likely to disturb P.W.1 and P.W.2 as he is a practicing lawyer at Tiruppur, and therefore opposed the prayer sought for suspension of sentence.

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



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7. We find from the evidence of P.W.1, P.W.2 and the doctors, P.W.10 and P.W.11 that the petitioner had attacked the victims, P.W.1 and P.W.2 with a chopping knife. On a perusal of the above evidence, we are of the view that the question as to whether the act of the petitioner would only attract the offence under Section 326 IPC requires consideration and the same cannot be ruled out. We are also *prima facie* of the view that the sentence imposed on the petitioner is disproportionate to the offence alleged against him.

8. Considering the above facts and that the petitioner is in custody from 18.09.2022 since the date of his arrest and the appeal is not likely to be taken up in the near future, we are inclined to grant the relief of suspension of sentence to the petitioner herein.

9. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence of imprisonment is **suspended** and the sentence imposed on the petitioner is suspended on the following conditions:



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- (i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two independent sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate I, Tiruppur;
- (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; and
- (iii) The petitioner shall stay at Tirunelveli and appear before the Inspector of Police, Perumalpuram Police Station, Tirunelveli weekly twice i.e., on every Monday and Thursday of every month at 10.30 a.m. and shall not enter the district of Tiruppur until further orders.

It is made clear that if the petitioner indulges in any act so as to disturb the victims P.W.1 and P.W.2, the respondents are at liberty to file a petition for cancellation of the bail.

[M.S.R.,J.] [S.M.,J.]
28.02.2024

Anu
Issue order copy by 29.02.2024



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M.S.RAMESH, J

and

SUNDER MOHAN, J

Anu

To

1. The Judicial Magistrate I, Tiruppur

2.The Inspector of Police,
North Police Station,
Tiruppur.

3.The Superintendent of Prison,
Central Prison, Coimbatore.

4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.

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