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CRL.M.P.No.8244 of 2024
in CRL.A.No.580 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CRL.M.P.No.8244 of 2024

in

CRL.A.No.580 of 2022

Ravindra Kumar

... Petitioner

Vs.

The State Represented by
The Inspector of Police,
Kavundapadi Police Station,
Erode.
(Crime No.10/2010)

... Respondent

Prayer: Criminal Miscellaneous Petition is filed under Section 389(1) of Criminal Procedure Code, pleaded to suspend the sentence imposed in S.C.No.64 of 2020 on the file of the III Additional District and Sessions Judge, Erode at Gobichettipalayam dated 26.04.2021 and enlarge the petitioner on bail, pending disposal of the Criminal Appeal NO.580 of 2022 on the file of this Court.

For Petitioner

: Ms.K.Akshaya



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For Respondent

: Mr.Raja Kumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by **V.SIVAGNANAM, J.**]

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner in S.C.No.64 of 2020 on the file of the III Additional District and Sessions Judge, Erode at Gobichettipalayam dated 26.04.2021 and enlarge the petitioner on bail till the disposal of the appeal.

2. The petitioner in the above Sessions Case, was convicted and sentenced for the offences under Sections 302 and 201 Indian Penal Code (IPC) and was sentenced to undergo rigorous imprisonment for life (2 counts) and to pay a fine of Rs.1,000/- for each count in default to undergo simple imprisonment for one year; under Section 201 IPC and was sentenced to undergo seven years imprisonment and to pay a fine Rs.1,000/-, in default to undergo simple imprisonment for one year.

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



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

4. The learned counsel for the petitioner would submit that the charge framed by the Trial Court reveals that the accused in furtherance of the previous enmity planned to use the opportunity to kill the deceased. The accused assaulted Naveen Kumar by Iron pipe on his left forehead, nose and right side of his head, right cheek, left cheek and caused grievous injuries. The accused by the same iron pipe assaulted Sudendrakumarvarma @ Mukesh in the right side of his head near right eye, left and right cheeks and caused grievous injuries. The accused knowing the deceased were died on the spot in furtherance of the injuries sustained by them, he hidden the dead bodies under the bundle of waste cloth. But there is no eyewitness. Thus, pleaded to suspend the sentence.

5. However, the learned Additional Public Prosecutor appearing on behalf of the respondent would submit that last seen theory has been established by the prosecution and the Doctors evidence also corroborate with the injuries caused to the deceased. No eye witness to the occurrence.



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6. With reference to the above charges specifically framed by the Trial Court, the prosecution ought to have produced eyewitness to the occurrence but failed.

7. Considering the above facts and circumstances, we are of the opinion that the petitioner could establish *prima facie* case and also considering the fact that the petitioner is in long incarceration 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.

8. 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:

- (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 III Additional District and Sessions Judge, Erode at Gobichettipalayam.
- (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



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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.]
02.09.2024

Jeni

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

- 1.The III Additional District and Sessions Judge,
Erode at Gobichettipalayam.
- 2.The Superintendent of Prison,
Central Prison,
Coimbatore.
- 3.The Inspector of Police,
Kavundapadi Police Station,
Erode.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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