



Crl.MP.No.14903 of 2023
in Crl.A.No.327 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.14903 of 2023
in Crl.A.No.327 of 2023

Vignesh

...Petitioner/Accused

Vs.

The State Represented by its
The Inspector of Police,
Mayiladuthurai Police Station
Nagapattinam District
Crime No.547 of 2015

... Respondent/Complainant

Prayer :- Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence imposed on the petitioner in S.C.No.30 of 2016 on the file of the learned Sessions Judge (Fast Track Mahila Court), Nagapattinam, dated 08.10.2021 and to enlarge him on bail until the pending disposal of the above Criminal Appeal.

For Petitioner : Mr.S.Saravana Kumar
For Respondent : Mr.E. Raj Thilak
Additional Public Prosecutor

ORDER



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

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This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner in S.C.No.30 of 2016 on the file of the learned Sessions Judge (Fast Track Mahila Court), Nagapattinam, dated 08.10.2021 and enlarge him on bail pending disposal of the above Criminal Appeal.

2.The learned Sessions Judge (Fast Track Mahila Court), Nagapattinam, in S.C.No.30 of 2016, convicted the petitioner and sentenced him as follows:

Offence	Sentence Imposed
450 IPC	To undergo five years Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo three months Simple imprisonment.
326 IPC	To undergo three years Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo three months Simple imprisonment.
307 IPC	To undergo seven years Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo three months Simple imprisonment.
302 IPC	To undergo Life Imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo three months Simple imprisonment.

The aforesaid sentences were ordered to run concurrently.

3.Challenging the above conviction and sentence, the petitioner/accused



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

4. Heard Mr.S.Saravana Kumar, learned Counsel appearing for the petitioner and Mr.E. Raj Thilak, learned Additional Public Prosecutor, appearing for the respondent/State.

5. The case of the prosecution is that the appellant and the grand daughter of the deceased were in romantic relationship; that the deceased and his wife had opposed the said relationship; that enraged by the said act of the deceased and his wife, the petitioner on 14.08.2015 at about 11 p.m trespassed into the house of the deceased and abused him in filthy language and attacked him with knife indiscriminately and also attacked P.W.1 and that as a result of those injuries, the deceased died on 01.09.2015.

6. The learned counsel for the petitioner submitted that P.W.1 had not supported the prosecution case inasmuch as she deposed that M.O.1 produced by the prosecution was not the knife which was used by the accused and that in any



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event, since the deceased died 17 days after the occurrence due to Septicemia, the accused did not have intention to cause the death of the deceased.

7. The learned Additional Public Prosecutor, per contra, submitted that P.W.1's evidence cannot be discarded merely because she had deposed that the M.O.1 produced by the prosecution was not the knife which was used by the accused and that the case of the prosecution is proved beyond reasonable doubt.

8. We have carefully considered the rival submissions and perused the records. Admittedly the deceased, who was 67 years old, died 17 days after the occurrence due to Septicemia. Considering the above facts and the nature of injuries suffered by the deceased, we are of the view that the petitioner/appellant would be liable for lesser punishment for the offence of culpable homicide not amounting to murder, even if we believe the evidence of P.W.1. The appellant is in custody since 22.03.2022. Since the present appeal is not likely to be taken up for hearing in the near future, we are inclined to suspend the sentence on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/-,



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with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Mayiladuthurai.

- (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.)
11.01.2024

bga

Internet : Yes

Index : Yes / No

Note to office : Issue Order Copy on 12.01.2024

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To

1. The Judicial Magistrate No.II, Mayiladuthurai.

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2.The Inspector of Police,
Mayiladuthurai Police Station
Nagapattinam District
Crime No.547 of 2015

3.The Superintendent,
Central Prison, Cuddalore.

4.The Public Prosecutor,
High Court, Madras.



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

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