



WEB COPY



*Crl.M.P.No.12843 of 2024
in Crl.A.No.1150 of 2024*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.12843 of 2024

in

Crl.A.No.1150 of 2024

Prem @ Premkumar

...

Petitioner /Accused

Vs.

State represented by
The Station House Officer
Mudaliarpet Police Station,
Puducherry.
(Crime No.185 of 2021)

...

Respondent / Complainant

PRAYER: Criminal Miscellaneous Petition has been filed under Section 430 of BNSS praying to suspend the sentence passed in S.C.No.58 of 2022 dated 06.07.2024 convicting the appellant by III Additional Sessions Judge at Pondicherry, pending disposal of the above appeal.

For Petitioner : Mr.R.Thamaraiselvan

For Respondent : Mr.K.S.Mohandass
Public Prosecutor (Pondicherry)



*Crl.M.P.No.12843 of 2024
in Crl.A.No.1150 of 2024*

WEB COPY

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in S.C.No.58 of 2022 dated 06.07.2024 by III Additional Sessions Judge at Pondicherry convicting the appellant, pending disposal of the above appeal.

2. The case of the prosecution is that the petitioner, alongwith 30 other accused, had conspired and caused death of the deceased by name Sathish @ Bomb Ravi on 24.10.2021, at about 2.30 p.m.

3. The petitioner/accused in S.C.No.58 of 2022 was convicted by the Trial Court by judgment dated 06.07.2024 for the offence under Section 25(1-A) of Arms Act and sentenced to undergo 7 years Rigorous Imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo 6 months Simple Imprisonment. Aggrieved by the same, the petitioner/accused filed Crl.A.No.1150 of 2024 along with the instant miscellaneous petition seeking suspension of sentence and bail.



*Crl.M.P.No.12843 of 2024
in Crl.A.No.1150 of 2024*

WEB COPY

4. The learned counsel for the petitioner would submit that all the accused including the petitioner were acquitted of the charge under Sections 120-B, 148, 341, 302 IPC and Section 3 & 4 of Explosive Substances Act r/w Section 149 of IPC; that the petitioner alone was convicted for the offence under Section 25(1-A) of Arms Act on the allegation that he brandished a sickle (aruval) in a public place which was captured in a CCTV camera and that the petitioner is in custody from 17.01.2022 and that he is sentenced to undergo 7 years imprisonment. The learned counsel further pointed out that the petitioner, in his reply to the questions under Section 313 Cr.PC., has stated that he was made to walk with a sickle and the respondent had taken a video of the same; and that there are arguable points in the above appeal which requires consideration.

5. The learned Government Advocate (crl.side) appearing for the respondent, per contra submitted that the petitioner is in custody in another case and he is now confined in Central Prison, Kalapet, Pondicherry; that considering his antecedents, he may not be granted suspension of sentence.



*Crl.M.P.No.12843 of 2024
in Crl.A.No.1150 of 2024*

WEB COPY

6. Though several opportunities were given for filing counter, the respondent had not chosen to file a counter.

7. Heard the learned counsel for the petitioner as well as the learned Government Advocate (crl.side) appearing for the respondent and perused the records.

8. Admittedly, the petitioner and others who were charged for the offence of conspiracy of murder have been acquitted of all the charges. The petitioner alone was convicted under Section 25(1-A) of Arms Act and sentenced to undergo 7 years imprisonment. The petitioner is in custody from 17.01.2022.

9. Taking into consideration the submissions of the learned counsel for the petitioner; and that there are several arguable points in the above appeal; that the petitioner is in custody from 17.01.2022 and that the appeal is not likely to be taken up in the near future, this Court is inclined to grant the relief of suspension of sentence to the petitioner.



*Crl.M.P.No.12843 of 2024
in Crl.A.No.1150 of 2024*

WEB COPY

10. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence imposed on the petitioner is suspended and the petitioner is ordered to be released on bail on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.10,000/-, with two sureties, each for a like sum to the satisfaction of the III Additional Sessions Judge at Pondicherry ;
- (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 respondent police, once in a week, at 10.30 a.m. until further orders;
- (iv) 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.

27.11.2024

rgr

Issue order copy by 28.11.2024
Upload the order copy forthwith.



WEB COPY



*Crl.M.P.No.12843 of 2024
in Crl.A.No.1150 of 2024*

SUNDER MOHAN, J.

rgt

To

1.The III Additional Sessions Judge
Pondicherry,

2. The Superintendent,
Central Prison,
Kalapet, Pondicherry.

3.The Station House Officer
Mudaliarpet Police Station,
Puducherry.

4.The Public Prosecutor,
High Court, Madras.

Crl.M.P.No.12843 of 2024
in Crl.A.No.1150 of 2024

27.11.2024