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Crl.M.P.No.18291 of 2022
in Crl.A.No.1221 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.M.P.No.18291 of 2022
in Crl.A.No.1221 of 2022

K. Sridhar

... Petitioner

Vs.

State represented by Inspector of Police,
C-3 Kadathur Police Station,
Erode District.
(Crime No.112/2017)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of the Criminal Procedure Code, seeking to suspend the sentence imposed against the petitioner in S.C.No.87/2017 dated 05.09.2018, convicting the appellant/accused U/s. 302, 307, 324, 447 of IPC and enlarge the petitioner on bail.

For Petitioner : Mr.C.D. Johnson

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 herein, by the learned III Additional District Principal Sessions Judge at Gobichettypalayam, Erode District, dated 05.09.2018 in S.C.No.87 of 2017 and enlarge him on bail, pending disposal of the Criminal Appeal.

2. The learned III Additional District Principal Sessions Judge at Gobichettypalayam, Erode District, in S.C.No.87 of 2017, has convicted the petitioner/accused and sentenced him as follows:-

	<i>Offence</i>	<i>Sentence imposed</i>
<i>Accused</i>	Section 302 of IPC	Life imprisonment
	Section 307 of IPC	10 years of Rigorous imprisonment
	Section 324 of IPC	One year of Rigorous imprisonment
	Section 447 of IPC	3 months of Simple imprisonment

Sentences to run concurrently.



Crl.M.P.No.18291 of 2022
in Crl.A.No.1221 of 2022

WEB COPY

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

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

5. The case of the prosecution is that the deceased is the wife of the petitioner; that she was living with P.W.2; that the petitioner was upset with the deceased; that on 02.04.2017, the petitioner went to P.W.2's house with an intention to do away with the deceased and caused the death of deceased by stabbing her with knife on the left chest and at the right back and had also caused injury to P.W.2 on his left thigh and left buttocks and that the deceased died due to the said injuries.

6. Learned counsel for the petitioner submitted that the petitioner is in jail since 05.09.2018 and that the Trial Court had not considered that



Crl.M.P.No.18291 of 2022
in Crl.A.No.1221 of 2022

the petitioner had sustained grievous injuries, which has been established by the documents marked by the defence as Exs.D1 & D2.

7. Per contra, the learned Additional Public Prosecutor appearing for the respondent/Police submitted that the prosecution has established the case beyond reasonable doubt and since the petitioner went to the house of P.W.2, the Trial Court convicted the petitioner for the offences charged against him.

8. We have perused the records and we find that Exs.D1 & D2 are the extracts of Accident Register and Injury Certificate respectively, issued to the petitioner. Ex.D2 refers to four injuries suffered by the petitioner and as per the opinion of the doctor, the injuries are grievous in nature. However, we find that the prosecution has not explained the grievous injuries suffered by the petitioner, which makes the version of P.W.2 doubtful.

9. Considering the above facts and the fact that the petitioner is in jail for more than five years, we are inclined to suspend the sentence.



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Crl.M.P.No.18291 of 2022
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10. Accordingly, this Criminal Miscellaneous Petition stands **allowed** and the sentence of imprisonment 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 sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned III Additional District Principal Sessions Judge, Gobichettipalayam, Erode District;
- (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.



WEB COPY



Crl.M.P.No.18291 of 2022
in Crl.A.No.1221 of 2022

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.)

02.01.2024

Index: Yes/No

Internet: Yes/No

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Note: Issue Order Copy on 03.01.2024



Crl.M.P.No.18291 of 2022
in Crl.A.No.1221 of 2022

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To

- 1.The Inspector of Police,
C-3 Kadathur Police Station,
Erode District.
- 2.The Additional Public Prosecutor,
High Court,
Madras.



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

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