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*Crl.M.P.No.13295 of 2024
in Crl.A.No.1156 of 2024*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.13295 of 2024

in

Crl.A.No.1156 of 2024

1.M.Muralidharan
2.S.Umachandran
3.K.Inbarasan

...

Petitioners / Accused 1 to 3

Vs.

State represented by
Deputy Superintendent of Police
CBCID, Vellore Range,
Vellore District,
Cr.No.01 of 2017

...

Respondent /Complainant

PRAYER: Criminal Miscellaneous Petition has been filed under Section 430(1) of Bharatiya Nagarik Suraksha Sanhita, 2023 / 389(1) of Cr.P.C, praying to suspend the sentence imposed by the learned Principal Sessions Judge, Vellore in S.C.No.289 of 2023 by his judgment dated 22.07.2024 and enlarge the petitioners on bail, pending disposal of the above appeal.

For Petitioners : Mr.R.John Sathyan
Senior Counsel for
Mr.P.Divakar
For Respondent : Dr.C.E.Pratap,



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Govt.Advocate (Crl.side)

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed by the learned Principal Sessions Judge, Vellore in S.C.No.289 of 2023 by his judgment dated 22.07.2024 and enlarge the petitioners on bail, pending disposal of the above appeal.

2. The petitioner, is the inspector of police, the second petitioner is the head constable and the third petitioner is the sub-inspector of police. The case of the prosecution is that the deceased was kept in illegal custody by the petitioners; that during the custody the deceased was subjected to torture and attempted to commit suicide by encircling a leading chain around his neck and later he was taken for treatment to hospital where he was declared brought dead.

3. The petitioners/Accused 1 to 3 in C.C.No.115 of 2019 were convicted by the Trial Court by judgment dated 22.07.2024 by the learned Principal Sessions Judge, Vellore, in S.C.No.289 of 2023 for offences (1) A1 to A3 under Section 346 r/w 34 of IPC sentenced to undergo 1 year of rigorous



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imprisonment (2) A1 to A3 under Section 348 r/w 34 of IPC sentenced to undergo 2 years of rigorous imprisonment and to pay a fine of Rs.20,000/- each and in default sentence to undergo simple imprisonment for a period of 3 months. (3) A.1 under Section 331 of IPC sentenced to undergo 7 years of rigorous imprisonment and to pay a fine of Rs.50,000/- and in default sentence to undergo simple imprisonment for a period of 6 months (4) A2 & A3 under Section 331 r/w 34 of the IPC, sentenced to undergo 7 years of rigorous imprisonment and to pay a fine of Rs.50,000/- each and in default sentence to undergo simple imprisonment for a period of 6 months (5) A1 to A3 under Section 167 r/w 34 of IPC sentenced to undergo 2 years of rigorous imprisonment and to pay a fine of Rs.20,000/- each and in default sentence to undergo simple imprisonment for a period of 3 months, (6) A1 under Section 203 r/w 34 of IPC sentenced to undergo 1 year of rigorous imprisonment and to pay a fine of Rs.10,000/- and in default sentence to undergo simple imprisonment for a period of 2 months (7) A2 under Section 203 of IPC sentenced to undergo 1 year of rigorous imprisonment and to pay a fine of Rs.10,000/- and in default sentence to undergo simple imprisonment for a period of 2 months (8) A1 under Section 218 of IPC sentenced to undergo 2 years of rigorous imprisonment and to pay a fine of Rs.20,000/- and in default



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sentence to undergo simple imprisonment for a period of 3 months (9) A2 and A3 under Section 218 r/w 34 of IPC sentenced to undergo 2 years of rigorous imprisonment and to pay a fine of Rs.20,000/- each and in default sentence to undergo simple imprisonment for a period of 3 months and (10) A1 to A3 under Section 304(ii) r/w 34 of IPC sentenced to undergo 7 years of rigorous imprisonment and to pay a fine of Rs.50,000/- each and in default sentence to undergo simple imprisonment for a period of 6 months. Aggrieved by the same, the petitioner/Accused filed Crl.A.No.1156 of 2024 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. The learned Senior Counsel for the petitioner would submit that there is absolutely no evidence to show that the deceased had suffered any ill-treatment or torture ; that on the contrary, there is medical evidence to show that the deceased died due to “rupture of aortic dissection, outward into the pericardial cavity, leading to cardiac tamponade” and that the trial court, after having noted that there are no external injuries, however on erroneous appreciation of the medical evidence had presumed that the rupture would have been caused due to harassment and that since the deceased was otherwise healthy, the offences under Section 304 (ii) of IPC is made out. The learned



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Senior Counsel therefore submitted that there are several arguable points in the above appeal ; that the petitioners are in custody from 22.07.2024 and prayed for suspension of sentence.

5. The learned Government Advocate (crl.side) appearing for the respondent, per contra, submitted that there is evidence to show that the petitioners had kept the deceased in illegal detention and subjected to custodial torture and the trial court, therefore had rightly convicted the petitioners for the offence under Section 304 (ii) of IPC and that the petitioners have not made out any case for suspension of sentence.

6. Heard the learned Senior Counsel for the petitioner as well as learned Government Advocate (crl.side) appearing for the respondent and perused the records.

7. Taking into consideration, and finding force, in the submissions made by the learned counsel that there are arguable points in the appeal which requires consideration, the period of incarceration, this Court is inclined to grant the relief of suspension of sentence to the petitioners.



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

- (i) The petitioners shall execute a bond for a sum of Rs.10,000/- each, with two sureties, each for a like sum to the satisfaction of the learned Principal Sessions Judge, Vellore
- (ii) The petitioners 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 petitioners 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.

20.11.2024

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Issue order copy by 22.11.2024
Upload the order copy forthwith.



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SUNDER MOHAN, J.

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To

1.The Principal Sessions Judge,
Vellore

2. The Superintendent,
Central Prison Vellore.

3. The Deputy Superintendent of Police
CBCID, Vellore Range,
Vellore District,

4.The Public Prosecutor,
High Court, Madras.

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