



WEB COPY



Crl.MP.No.600 of 2023 in CrL.A.No.52/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.03.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.600 of 2023 in CrL.A.No.52/2023

Senthil @ Senthilkumar

.. Petitioner

Versus

State by
The Inspector of Police,
Palladam Police Station,
Tiruppur District.
Cr.No.50 of 2015

.. Respondent

Prayer:-Criminal Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence imposed by the learned I Additional District and Sessions Judge, Tiruppur in S.C.No.41 of 2016 dated 23.09.2022 and enlarge the petitioner on bail.

For Petitioner : Ms.S.Ambika
for Mr.K.Venkateswaran

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor
assisted by Mr.C.Aravind



WEB COPY



Crl.MP.No.600 of 2023 in CrI.A.No.52/2023

ORDER

[Order of the Court was made by SUNDER MOHAN, J]

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner vide judgement and order dated 23.09.2022 passed in S.C.No.41 of 2016 on the file of the I Additional District and Sessions Judge, Tiruppur, and to enlarge the petitioner on bail pending disposal of the appeal.

2. The case of the prosecution is that the petitioner and the deceased were close friends and used to consume liquor together; that on 15.11.2014 at about 09.00 p.m., when they both went to consume liquor, the deceased is alleged to have asked the accused to bring his wife to sleep with him; and that the petitioner, enraged by the said act of the deceased, is said to have caused the death of the deceased by severing his head with a Billhook (vettukathi) and then dropped the body in a canal.



CrI.MP.No.600 of 2023 in CrI.A.No.52/2023

3. Heard the learned counsel for the petitioner / accused and Mr.E.Raj Thilak, the learned Additional Public Prosecutor appearing for the respondent/State.

4.Learned counsel for the petitioner / accused submitted that the prosecution has failed to establish the circumstances conclusively, that the motive has not been established by the prosecution; and that there is no other evidence to connect the petitioner with the alleged offence except the extra judicial confession said to have been given by the petitioner to the P.W.8, who turned hostile.

5.Learned Additional Public Prosecutor, per contra, submitted that there is evidence to show that the petitioner used the mobile phone of the deceased with a new SIM card by removing the SIM card of the deceased. Further, he submitted that all the circumstances have been established and prayed for dismissal of the petition for suspension of sentence.



Crl.MP.No.600 of 2023 in CrI.A.No.52/2023

WEB COPY

6. We have carefully considered the rival submissions and perused the evidence on record. The petitioner is said to have given an extra judicial confession to P.W.8, who turned hostile. Therefore, the extra judicial confession is of no avail to the prosecution. Though the Investigating Officer has stated that the petitioner had used the mobile phone belonging to the deceased from 17.11.2014, the nodal officers have not been examined. The motive has not been established by the prosecution. We find that, therefore, the chain of circumstances has not been established by the prosecution, and the petitioner has a fair chance of success in the appeal. Hence, we are inclined to grant the relief of suspension of sentence to the petitioner herein.

7. 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 I Additional District and Sessions



Crl.MP.No.600 of 2023 in CrI.A.No.52/2023

Judge, Tiruppur;

WEB COPY

- (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; 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 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.]
11.03.2024

Anu

Issue order copy by 12 .03.2024

Upload the order copy forthwith.

Internet: Yes



WEB COPY



Crl.MP.No.600 of 2023 in Crl.A.No.52/2023

M.S.RAMESH, J
and

SUNDER MOHAN, J

Anu

To

1.The I Additional District and Sessions Judge,
Tiruppur.

2.The Inspector of Police,
Palladam Police Station,
Tiruppur District.

3.The Additional Superintendent,
Central Prison, Coimbatore.

4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.

Crl.MP.No.600 of 2023 in Crl.A.No.52/2023

11.03.2024