



Crl.M.P.No.17315 of 2023  
in Crl.A.No.1230 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2024

CORAM:

THE HON'BLE **MR.JUSTICE M. NIRMAL KUMAR**

Crl.M.P.No.17315 of 2023

in

Crl.A.No.1230 of 2023

Ajay @ Vajpai

S/o.Madhiazhagan

... Petitioner/Accused

Vs.

State Rep.

The Inspector of Police,

Mohanur Police Station,

Namakkal District.

Crime No.82 of 2022

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) and 439 of Code of Criminal Procedure, to suspend the sentence imposed in judgment dated 22.08.2023 passed in S.C.No.59 of 2022 on the file of Principal Assistant Sessions Court, Namakkal District and enlarge the petitioner on bail, pending disposal of the above criminal appeal.

For Petitioner : Mr.C.D.Sugumar

For Respondent : Mr.R.Vinothraja  
Government Advocate (Crl. Side)



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## **ORDER**

This Criminal Miscellaneous Petition has been filed by the petitioner, seeking to suspend the sentence imposed in S.C.No.59 of 2022 vide judgment dated 22.08.2023 on the file of learned Principal Assistant Sessions Judge, Namakkal and enlarge the petitioner on bail, pending disposal of the above criminal appeal.

2.The petitioner/Accused was convicted by the trial Court in S.C.No.59 of 2022 by judgment dated 22.08.2023 and sentenced to undergo three months imprisonment and to pay a fine of Rs.1,000/-, in default to undergo one week simple imprisonment for offence under Section 294(b) of I.P.C. and to undergo ten years imprisonment and to pay a fine of Rs.1,000/-, in default to undergo one month simple imprisonment for offence under Section 307 of I.P.C. Aggrieved against the conviction, the petitioner preferred an appeal in Crl.A.No.1230 of 2023 before this Court along with petition seeking suspension of sentence and bail.



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3.During trial, on the side of the prosecution, PW1 to PW10 examined, Exs.P1 to P10 marked and M.O.1 marked. On the side of the defence, no witnesses examined and no documents marked. On conclusion of the trial, the Trial Court on the evidence of witnesses and the materials produced, convicted the petitioner as stated above.

4.The contention of the learned counsel for petitioner is that the petitioner and PW1/victim are friends. There was some dispute during fishing and a wordy quarrel arose and the petitioner is said to have assaulted the victim/PW1 on the left side of his neck and left ring finger. It was not a pre-meditated fight. In this case PW2 is the brother of the victim, who lodged a complaint. PW3 is the wife of the victim and PW4 is the mother-in-law of the victim. Admittedly, PW2 to PW4 came to the scene of occurrence later. PW5 is the projected eyewitness, a neighbour of PW1. The Doctor/PW8, who treated the victim, issued Ex.P4/Accident Register and Ex.P6/Wound



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certificate. He confirms that injury on the neck is simple in nature and injury on the left ring finger is grievous in nature. The grievous injury is on the non vital part. In this case, arrest, confession, recovery of M.O.1 are also doubtful. He further submitted that the petitioner is the sole bread winner of his family and the petitioner has got no bad antecedents. Hence, he prays for granting suspension of sentence to the petitioner.

5.The learned Government Advocate (Crl. Side) filed his counter and submitted that on 29.03.2022 at about 6.00 p.m., the petitioner with an intention to do away PW1 for a fight, which took place earlier, had brought the Aruval and damaged the two wheeler of PW1. When PW1 questioned the same, he was attacked on his neck and when PW1 tried to save himself, he sustained injury on the left hand ring finger. PW2/brother of PW1 immediately took the victim to the hospital. PW8 is the Doctor, who treated the victim and on the complaint of PW2, a case was registered by PW7, who visited scene of occurrence, prepared observation mahazar, enquired



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witnesses present in the scene of occurrence. PW5/neighbour of PW1, who was present at the time of attack, clearly narrated the incident. The injuries were confirmed by the medical evidence. He further submitted that during trial, PW1 to PW10 examined, Exs.P1 to P10 marked and M.O.1 marked. The trial Court on the evidence of the witnesses had rightly convicted the petitioner. Hence, prays for dismissal of the petition.

6.This Court called for the records from the Lower Court and perused Ex.P4/Accident Register and Ex.P6/Wound certificate. It is seen that the injury on the neck is simple in nature and injury to the left ring finger is serious in nature and is a grievous one. It is also seen that both petitioner and PW1 are friends and there was a fight during fishing. Prior to the occurrence there was a wordy quarrel, thereafter the petitioner assaulted PW1. The petitioner is working in plantation and M.O.1 is an instrument, which is used for his routine work. In view the above, this Court finds that the conviction of



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the petitioner under Section 307 of I.P.C. needs reconsideration. Hence, this Court is inclined to grant suspension of sentence to the petitioner.

7. Accordingly, the substantive sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the appeal and he is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties, each for a like sum to the satisfaction of the trial Court.

8. Further, the petitioner shall appear before the Trial Court once in three months on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the criminal appeal and if he is not able to appear before the Trial Court on that 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.



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9. Accordingly, this Criminal Miscellaneous Petition is ordered.

25.09.2024

Index : Yes/No

Internet : Yes/No

Speaking order / Non-speaking order

Neutral citation : Yes/No

rsi

**Note: Issue order copy on 25.09.2024.**

To

1. The Inspector of Police,  
Mohanur Police Station,  
Namakkal District.
2. The Principal Assistant Sessions Judge,  
Namakkal.
3. The Superintendent of Prison,  
Central Prison,  
Coimbatore.
4. The Public Prosecutor,  
High Court, Madras.



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**M. NIRMAL KUMAR, J.**

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**25.09.2024**