



WEB COPY



*Crl.MP No.15137 of 2024
in Crl.A.No.1326 of 2024*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.MP No.15137 of 2024
in Crl.A.No.1326 of 2024

Arun

...

Petitioner

Vs.

State rep by The Inspector of Police,
H-6, Dr.Radhakrishnan Nagar,
Chennai.
(Crime No.188 of 2022)

...

Respondent

Prayer: Criminal Miscellaneous Petition has been filed under Section 415 of BNSS Act praying to suspend the sentence imposed on the petitioner/appellant/A.1 by order dated 27.09.2024 in S.C.No.278 of 2022 on the file of the Sessions Judge, Magalir Neethimandram, Allikulam at Chennai and release the petitioner / appellant (A.1) on bail, pending disposal of the above appeal.

For Appellant : Ms.K.Bommuraj

For Respondent : Dr.C.E.Pratap,
Government Advocate (Crl.side)



WEB COPY



*Crl.MP No.15137 of 2024
in Crl.A.No.1326 of 2024*

ORDER

This Criminal Miscellaneous Petition has been filed seeking suspension of sentence imposed on the petitioner/appellant(A.1) by order dated 27.09.2024 in S.C.No.278 of 2022 on the file of the Sessions Judge, Magalir Neethi Mandram, Allikulam at Chennai and to release the petitioner / appellant (A.1) on bail, pending disposal of the above appeal.

2. The case of the prosecution is that the petitioner had a love affair with the deceased; that the father of the deceased who came to know of the love affair, had reprimanded the deceased and thereafter, the deceased stopped contacting the petitioner; that the petitioner infuriated by the said act of the deceased, went to the house of the deceased alongwith A.2 and shouted at the deceased in filthy and abusive language, thereby insulted and humiliated the deceased, as a result of which the deceased committed suicide.

3. The petitioner/accused in S.C.No.278 of 2022 was convicted by the Trial Court by judgment dated 27.09.2024 under Section 4 of Tamil Nadu Prohibition of Harassment Women's Act 1998 and Sections 294(b) and 306



*Crl.MP No.15137 of 2024
in Crl.A.No.1326 of 2024*

WEB COPY

r/w 34 IPC and sentenced to undergo rigorous imprisonment for 3 years and to pay Rs.10,000/- each and in default to undergo a simple imprisonment for 3 months each for offence punishable under Section 4 of Tamil Nadu Prohibition of Harrasment Women's Act ; to pay a fine of Rs.1000/- each in default to undergo simple imprisonment for one month each for offense punishable under Section 294(b) IPC; to undergo rigorous imprisonment for 5 years and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for 3 months for offense punishable under Section 306 r/w 34 IPC. Aggrieved by the same, the petitioner/accused filed Crl.A.No.1326 of 2024 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. The learned counsel for the petitioner would submit that the petitioner would not be liable for the offence under Section 306 IPC as none of the ingredients have been made out and even if the allegations were accepted to be true, only an offence under Section 506(i) would be made out and that the sentence of imprisonment imposed on A.2 was suspended by this Court, by order dated 04.11.2024.

5. The learned Government Advocate (crl.side) appearing for the



Crl.MP No.15137 of 2024
in Crl.A.No.1326 of 2024

respondent, per contra, opposed the grant of suspension of sentence to the petitioner on the ground that the prosecution had established its case beyond reasonable doubt and hence the petition is liable to be dismissed.

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

7. This Court, by order dated 04.11.2024, while suspending the sentence imposed on A.2 had made the following observations -

5. It is seen that there is a delay in lodging the FIR. The allegation against the petitioner is that he told the deceased that she had cheated his friend i.e., A1 and had asked her as to how many more persons she would cheat. Whether the overt act attributed to the petitioner would constitute the offence under Section 306 of the IPC has to be examined in the appeal. Considering the fact that the petitioner is in custody from 27.09.2024 and that there are arguable points in the above appeal, this Court is inclined to suspend the sentence.



*Crl.MP No.15137 of 2024
in Crl.A.No.1326 of 2024*

WEB COPY

8 . The above observations would squarely apply to the petitioner as well.

9. Considering the above facts, the period of incarceration, the fact that sentence imposed against A.2 has been suspended by this Court 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.

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.50,000/-, with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Magalir Neethi Mandram, Allikulam at Chennai;
- (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



*Crl.MP No.15137 of 2024
in Crl.A.No.1326 of 2024*

WEB COPY

(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.

14.11.2024

rgr

Issue order copy by 19.11.2024
Upload the order copy forthwith.

To

1.The Sessions Judge,
Magalir Neethi Mandram,
Allikulam at Chennai

2. The Inspector of Police,
H-6, Dr.Radhakrishnan Nagar,
Chennai.

3. The Superintendent
Central Prison,
Puzhal, Chennai.

4.The Public Prosecutor,
High Court, Madras.



WEB COPY



*Crl.MP No.15137 of 2024
in Crl.A.No.1326 of 2024*

SUNDER MOHAN, J.

rgt

Crl.MP No.15137 of 2024
in Crl.A.No.1326 of 2024

14.11.2024