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Crl.M.P.No.17996 of 2023
in Crl.A.No.169 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2024

CORAM:

**THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN**

Crl.M.P.No.17996 of 2023
in Crl.A.No.169 of 2023

Vigneshwaran @ Vicky

... Petitioner/Accused-1

Vs.

State rep. by its
The Inspector of Police,
N-1, Royapuram Police Station,
Chennai – 600 013.
Crime No.419/2013

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of the Criminal Procedure Code, seeking to suspend the sentence vide judgment dated 08.02.2023 in S.C.No.294 of 2014 on the file of the XIX Additional Sessions Judge, Chennai, sentencing him to undergo imprisonment for life and to pay fine of Rs.10,000/- (Rupees Ten Thousand Only) in default to undergo six months imprisonment; and enlarge the petitioner on bail pending disposal of the above main Criminal Appeal.



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For Petitioner : Mr.G.Krishnamurthy
For Respondent : Mr.E. Raj Thilak,
Additional Public Prosecutor
assisted by Mr.C.Aravind

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 by the learned XIX Additional Sessions Judge, Chennai, 08.02.2023 in S.C.No.294 of 2014 and enlarge him on bail.

2. The learned XIX Additional Sessions Judge, Chennai, in S.C.No.294 of 2014, has convicted the petitioner and sentenced him as follows:-

<i>Accused</i>	<i>Offence</i>	<i>Sentence imposed</i>
A1	Section 302 of IPC	Life imprisonment along with a fine of Rs.10,000/- in default to undergo simple imprisonment for 6 months.



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

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

5. It is the case of the prosecution that the petitioner/1st accused along with 3 others had attacked the deceased due to the quarrel in the wine shop where the deceased and the accused were consuming liquor and that the said incident was witnessed by P.W.1/defacto complainant.

6. The learned counsel for the petitioner submitted that P.W.1 in his cross-examination had admitted that he knew the petitioner even before the occurrence. However, in the complaint and in the chief examination, he had not named the petitioner and had stated that 3 known persons attacked his father (deceased). The learned counsel further submitted that



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admittedly, the deceased was taken to the hospital by an auto driver who was not examined by the Trial Court and therefore, the presence of P.W.1 is doubtful.

7. Per contra, the learned Additional Public Prosecutor submitted that the Trial Court had rightly convicted the petitioner/1st accused and that the petitioner had not made out any grounds for granting suspension of sentence.

8. We have perused the records carefully and considered the rival submissions.

9. On perusal of the records, we find that P.W.1 in his cross-examination stated that he knew the petitioner/1st accused even earlier. However, P.W.1 in his complaint and in his deposition has not named the petitioner as a person who has attacked his father and had only stated that 3 known persons attacked. Further, the deceased was taken to the hospital by an auto driver and not by P.W.1. In these circumstances, we are of the



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prima facie view that P.W.1's version is doubtful and the petitioner has fair chance of success in the appeal.

10. Considering the above facts, the petitioner is in custody since 08.02.2023 and that the appeal is not likely to be taken up in the near future, we are inclined to suspend the sentence and grant bail to the petitioner.

11. Accordingly, this Criminal Miscellaneous Petition stands **allowed** 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 sureties each, for a like sum to the satisfaction of the learned XVI Metropolitan Magistrate, George Town 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;



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(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.)

07.06.2024

Index: Yes/No

Sni

Note: Issue Order Copy on 10.06.2024



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To

- 1.The XVI Metropolitan Magistrate,
George Town, Chennai.
- 2.The Inspector of Police,
N-1, Royapuram Police Station,
Chennai – 600 013.
- 3.The XIX Additional Sessions Judge,
Chennai,
- 4.The Superintendent,
Central Prison,
Puzhal, Chennai.
- 5.The Public Prosecutor,
High Court, Madras.



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

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