



Crl.MP.No.17665 of 2023
in Crl.A.No.1254 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.17665 of 2023
in Crl.A.No.1254 of 2023

P.Venkatesan

...Petitioner

Vs.

State by
The Inspector of Police,
Arni Taluk Police Station,
Arni, Thiruvannamalai District.
(Crime No.154/2013)

... Respondent

Prayer :- Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence imposed on the petitioner by the learned Additional District and Sessions Judge (Fast Track Court), Arni, Thiruvannamalai District in S.C.No.102 of 2014 dated 26.09.2023 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.



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For Petitioner : Mr.M.Prabhakar

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 to suspend the sentence imposed on the petitioner by the learned Additional District and Sessions Judge (Fast Track Court), Arni, Thiruvannamalai District in S.C.No.102 of 2014 dated 26.09.2023 and enlarge him on bail pending disposal of the above Criminal Appeal.

2. The learned Additional District and Sessions Judge (Fast Track Court), Arni, Thiruvannamalai District, in S.C.No.102 of 2014, convicted the petitioner herein and sentenced him as follows:

Accused (A1)	Offence	Sentence Imposed
	302 IPC	To undergo life imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo 2



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years rigorous imprisonment.

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

4.Heard Mr.M.Prabhakar, learned Counsel appearing for the petitioner and Mr.E.Raj Thilak, learned Additional Public Prosecutor, appearing for the respondent/State.

5. It is the case of the prosecution that on account of a property dispute, the petitioner/accused was inimical towards the deceased, who was the father of the petitioner and in order to grab the property, caused the death of the deceased in the house of the deceased when the deceased was alone on 11.04.2013 at 3.00 p.m by covering a pillow on the face of the deceased, suffocated him and caused his death.

6. Learned counsel for the petitioner submitted that the case was initiated



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on the complaint of P.W.1, who is the sister's husband of the petitioner. The complaint was lodged only to grab the property of the petitioner, in whose name, the deceased had already settled the property. The motive alleged by the prosecution is also weak and no other circumstance has been proved by the prosecution connecting the petitioner to the alleged offence. The learned counsel for the petitioner submitted that the petitioner is in custody from 26.09.2023 and prayed for suspension of sentence.

7. Per contra, learned Additional Public Prosecutor submits that the prosecution has established the case beyond reasonable doubt and therefore, the trial Court had rightly convicted the petitioner and the petitioner is not entitled for suspension of sentence.

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

9. The case is based on circumstantial evidence. The motive alleged by the prosecution is that the deceased was upset with his father regarding a property



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dispute. The version of P.W.1 who speaks about the motive is self contradictory.

P.W.1 had stated that the deceased had settled the property in favour of the petitioner and when the sisters of the petitioner filed a suit, claiming the right over the property, the petitioner had settled the property in favour of his son. Since the petitioner was the beneficiary of the act of the deceased, the motive, alleged by the prosecution is improbable. There is no other circumstance connecting the petitioner to the alleged offence. Therefore, in our view, the petitioner has a fair chance of success in the appeal and hence we are inclined to grant the relief of suspension of sentence to the petitioner herein.

10. Considering the above facts and circumstances of the case and also taking note of the fact that the petitioner is in custody from 26.09.2023 and the appeal is not likely to be taken up for final hearing in the near future, we are inclined to suspend the sentence on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only), with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Additional District and Sessions Judge



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(Fast Track Court), Arni, Thiruvannamalai District,

(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;

(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.)
15.02.2024

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Note: Issue Order Copy on 16.02.2024

Internet : Yes

Index : Yes / No



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To

1. The Additional District and Sessions Judge,
(Fast Track Court), Arni, Thiruvannamalai
2. The The Inspector of Police,
Arni Taluk Police Station,
Arni, Thiruvannamalai District.
(Crime No.154/2013)
3. The Superintendent,
Central Prison, Vellore
4. The Public Prosecutor,
High Court, Madras.



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

SR

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