



Crl.MP.No.17995 of 2023
in Crl.A.No.633 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.17995 of 2023
in Crl.A.No.633 of 2023

Velliyangiri

...Petitioner

Vs.

State by
The Inspector of Police,
Erode North Police Station,
Erode District.
Ref:Cr.No.562/2017 dated 30.07.2017
U/s 302 IPC

... 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 II Additional Sessions Judge, Erode in S.C.No.4 of 2018 dated 12.04.2018 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.



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Crl.MP.No.17995 of 2023
in Crl.A.No.633 of 2023

For Petitioner : Mr.Deepanuday
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 II Additional Sessions Judge, Erode in S.C.No.4 of 2018 dated 12.04.2018 and enlarge him on bail pending disposal of the above Criminal Appeal.

2. The learned II Additional Sessions Judge, Erode in S.C.No.4 of 2018 convicted the petitioner herein and sentenced him as follows:

Accused (A1)	Offence	Sentence Imposed
	302 IPC	To undergo life imprisonment.

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



Crl.MP.No.17995 of 2023
in Crl.A.No.633 of 2023

miscellaneous petition.

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4. Heard Mr. Deepanuday, 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 the deceased and the accused were friends; that on 29.07.2017, the accused and the deceased went to TASMACH shop to consume alcohol and when they returned at about 23.00 hours, the deceased was unable to ride the auto because he was in an inebriated condition and he had stopped the auto in the main road and attempted to strangle the neck of the accused and had beaten him; that the accused got angry and picked up a stone and threw on the head of the deceased, as a result of which, the deceased sustained injuries and succumbed to injuries.

6. Learned counsel for the petitioner submits that the petitioner is in custody from 31.07.2017 and the entire case is based on circumstantial evidence and the prosecution has failed to prove the circumstances and in any case even as



Crl.MP.No.17995 of 2023
in Crl.A.No.633 of 2023

per the prosecution case, there was a scuffle and there is no pre-meditation for the petitioner to cause the death of the deceased and prayed for suspension of sentence.

7. Per contra, learned Additional Public Prosecutor submits that the prosecution has established all the circumstances 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 only circumstance established by the prosecution is that the evidence of last seen together, which is spoken by P.W.1, who had stated that the deceased and the petitioner were seen together on 29.07.2017 at 7.00 p.m. Admittedly, the deceased and the petitioner were friends. From the fact that they were seen together the previous evening, we cannot infer that the petitioner was guilty of causing the death of the deceased. The prosecution has not established the motive and there is



Crl.MP.No.17995 of 2023
in Crl.A.No.633 of 2023

no other circumstance against the petitioner. In any event, even according to the prosecution, the deceased attempted to strangle the neck of the petitioner and the petitioner thereafter, threw a stone on the deceased.

10. Considering the above facts and circumstances of the case and also taking note of the fact that the petitioner is in custody from 31.07.2017 and the present 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 II Additional Sessions Judge, Erode.
- (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



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Crl.MP.No.17995 of 2023
in Crl.A.No.633 of 2023

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.)
14.02.2024

sr

Note: Issue Order Copy on 15.02.2024

Internet : Yes

Index : Yes / No



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Crl.MP.No.17995 of 2023
in Crl.A.No.633 of 2023

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

SR

To

1. The II Additional Sessions Judge, Erode.
2. The Inspector of Police,
Erode North Police Station,
Erode District.
3. The Superintendent,
Central Prison, Trichy
4. The Public Prosecutor,
High Court, Madras.

Crl.MP.No.17995 of 2023
in Crl.A.No.633 of 2022

14.02.2024