



WEB COPY



Crl.MP.No.19974 of 2023
in Crl.A.No.1635 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.02.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.19974 of 2023

in

Crl.A.No.1635 of 2023

Krishnaveni

.. Petitioner/Accused no.2

Versus

State Rep.by

Inspector of Police

Arani Police Station,

Thiruvannamalai District.

...Respondent/Complainant

Prayer:- Civil Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence imposed in S.C.No.34 of 2021 dated 29.09.2023 on the file of the learned Additional District Session Judge – Fast Track Court Arani, Thiruvannamalai and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.A.S.Baalaji
for Mr.R.K.Gandhi

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor
Assisted by



Crl.MP.No.19974 of 2023
in Crl.A.No.1635 of 2023

Mr.C.Aravind

ORDER

[Order of the Court was made by SUNDER MOHAN, J]

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by judgment and order dated 29.09.2023 passed in SC No.34 of 2021 on the file of the learned Additional District Session Judge, Fast Track Court, Arani Thiruvannamalai, and to enlarge the petitioner on bail pending disposal of the appeal.

2. The petitioner, who was arrayed as accused no.2 in the above Sessions Case, was convicted for the offence under Section 302 read with Section 34 of the IPC and sentenced to undergo life imprisonment with fine of Rs.2,000/-, in default to undergo rigorous imprisonment for a period of two years.

3. Challenging the above conviction and sentence, the petitioner has filed the above Criminal Appeal and she seeks suspension of sentence and



Crl.MP.No.19974 of 2023
in Crl.A.No.1635 of 2023

bail in the present petition.

WEB COPY

4. Heard the learned counsel 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 petitioner and A1 were in love with each other; that earlier, the petitioner and the deceased had a romantic relationship and aggrieved by the fact that the petitioner/A2 developed intimacy with A1, the deceased had threatened the petitioner/A2 and A1 of dire consequences and therefore, the petitioner/A2, along with A1 decided to do away with the deceased; and that on 17.01.2020, the petitioner/A2 called the deceased and along with A1, attacked the deceased with knives and wooden log and caused his death.

6. Mr.A.S.Baalaji, the learned counsel for the petitioner/A2, submitted that the prosecution has not established any of the circumstances against the petitioner and the only evidence relied upon by the prosecution is the alleged extra judicial confession given by A1 to the Village



Crl.MP.No.19974 of 2023
in Crl.A.No.1635 of 2023

Administrative Officer which is uncorroborated and unreliable.

WEB COPY

7. Mr.E.Raj Thilak, the learned Additional Public Prosecutor, *per contra*, submitted that the circumstances have been fully established and the extra judicial confession given by A1 has been corroborated by the other circumstances proved by the prosecution and therefore, the petitioner is not entitled to suspension of sentence.

8. We have carefully considered the rival submissions and perused the evidence on record.

9. It is the case of the prosecution that the petitioner/A2 had relationship with the deceased initially and thereafter, with A1 and since the deceased was aggrieved, A1 and A2 decided to kill the deceased. However, there is no evidence let in by the prosecution to establish this motive, except for the extra judicial confession given by A1 to the Village Administrative Officer. It is settled law that even if the confession of A1 is believed, it cannot be the only basis to hold the petitioner/A2 guilty of the offence.



Crl.MP.No.19974 of 2023
in Crl.A.No.1635 of 2023

WEB COPY

The prosecution has to let in other evidence and use the confession of co-accused to lend assurance to the other evidences on record; which is not so in this case. Therefore, the petitioner has a fair chance of success in the appeal. However, it is made clear that the above observations are only an expression of our *prima facie* view.

10. Considering the above and the fact that the petitioner/A2 is in custody from 29.09.2023, and the appeal is not likely to be taken up in the near future, we are inclined to grant the relief of suspension of sentence to the petitioner herein.

11. Accordingly, this criminal miscellaneous petition stands allowed and the sentence of imprisonment is suspended 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, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Additional District Session Judge – Fast Track Court, Arani, Thiruvannamalai District;



Crl.MP.No.19974 of 2023
in Crl.A.No.1635 of 2023

WEB COPY

(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

(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 she is not able to appear before the trial Court on any day, she 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 her absence, as directed by the trial Court.

[M.S.R.,J.] [S.M.,J.]
20.02.2024

dk
Speaking/Non-Speaking order
Neutral Citation: Yes/No

Issue order copy by 21.02.2024
Upload the order forthwith.



WEB COPY



Crl.MP.No.19974 of 2023
in Crl.A.No.1635 of 2023

To

- 1.The Additional District Session Judge – Fast Track Court,
Arani,
Thiruvannamalai.
- 2.The Inspector of Police
Arani Police Station,
Thiruvannamalai District.
- 3.The Superintendent of Prisons,
Central Women Prison, Vellore.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



WEB COPY



Crl.MP.No.19974 of 2023
in Crl.A.No.1635 of 2023

M.S.RAMESH, J

and

SUNDER MOHAN, J

dk

Crl.MP.No.19974 of 2023
in
Crl.A.No.1635 of 2023

20.02.2024