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Crl.M.P.No.16100 of 2024 in Crl.A.No.1417 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.16100 of 2024
in Crl.A.No.1417 of 2024

Nihal ... Petitioner/A1

Vs.

The State Rep. by
The Inspector of Police,
K4, TIW, Anna Nagar Police Station,
Anna Nagar, Chennai.
(Cr.No.206/2022) ... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389 (1) Cr.P.C., to suspend the sentence imposed in S.C.No.602 of 2023 dated 22.10.2024 on the file of the learned Sessions Judge, Mahalir Needhimandram, Allikulam, Chennai and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.P.Divakar

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

ORDER

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed on the petitioner/A1 by judgment and



order dated 22.10.2024 passed in S.C.No.602 of 2023 on the file of the learned Sessions Judge, Mahalir Needhimandram, Allikulam, Chennai and to enlarge the petitioner on bail pending disposal of the appeal.

2. The case of the prosecution is that the petitioner/A1 on 09.10.2022 at 3.45 a.m., in an inebriated state, rode the two-wheeler in a rash and negligent manner; that A2 was riding pillion and dashed against the victim who was carrying a eight months old infant; and that both of them sustained fatal injuries.

3. The petitioner/A1, was convicted and sentenced by the trial Court as follows:

Offence under Section	Sentence imposed
279 of IPC	To undergo RI for six months and to pay a fine of Rs.1,000/-, in default to undergo SI for three weeks.
304 A (2 counts)	For each count to undergo RI for two years and to pay a fine of Rs.5,000/-, in default to undergo SI for two months.
129 of MV Act	To pay a fine of Rs.1,000/-, in default to under SI for two weeks.
The sentences are ordered to run concurrently.	

4. Heard Mr.P.Divakar, learned counsel for the petitioner and Dr.C.E.Pratap, learned Government Advocate (Crl.Side) appearing for



the respondent/State.

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5. The learned counsel appearing for the petitioner/A1 would submit that there are several arguable points in the above appeal and the sentence imposed upon the petitioner is suspended by the trial Court till 21.11.2024 and that he has paid the fine amount.

6. The learned Government Advocate (Crl. Side) *per contra* submitted that the prosecution had proved its case beyond reasonable doubt and therefore, opposed the petition for suspension of sentence.

7. Considering the fact that the sentence imposed by the trial Court has been suspended and the submissions of the learned counsel for the petitioner that there are several arguable points in the appeal and also the fact 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.

8. Accordingly, this criminal miscellaneous petition stands **allowed**. The sentence imposed on the petitioner/A1 is suspended on the



following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.10,000/- , with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Mahalir Needhimandram, Allikulam, 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
- (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.

19.11.2024

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SUNDER MOHAN, J.

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- To
1. The Sessions Judge,
Mahalir Needhimandram, Allikulam,
Chennai.
 2. The Inspector of Police,
K4, TIW, Anna Nagar Police Station,
Anna Nagar, Chennai.
 3. The Public Prosecutor,
Madras High Court.

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in Crl.A.No.1417 of 2024

(2/2)

19.11.2024