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Crl.M.P.No.17268 of 2024 in Crl.A.No.1155 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.17268 of 2024
in Crl.A.No.1155 of 2024

Mohammed Ismail Sait ... Petitioner/Accused

Vs.

The State Rep. by
The Inspector of Police,
B2-Esplanade Police Station,
Flower Bazaar Street, Chennai.
(Cr.No.168 of 2022) ... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 430 (1) of BNSS, to suspend the sentence imposed in S.C.No.336 of 2022 dated 03.11.2023 on the file of the learned XVII Additional District and Sessions Judge, Chennai and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.R.Shajahan

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/Accused by judgment and order dated 03.11.2023 passed in S.C.No.336 of 2022 on the file of the learned XVII Additional District and Sessions Judge, Chennai, and to



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enlarge the petitioner on bail pending disposal of the appeal.

2. The case of the prosecution is that the petitioner was working with the defacto complainant in a provision shop; that the petitioner was dismissed by his employer and presuming that the defacto complainant was responsible for the same, on 17.05.2022 at 4.00a.m., he attacked the defacto complainant with knife and caused injuries on the chest, back of the head and left index finger; and that the petitioner committed the offence under Section 307 of IPC.

3. The petitioner was convicted for the offence under Section 307 of the IPC by the trial Court and was sentenced to undergo RI for ten years and to pay a fine of Rs.5,000/-, in default to undergo SI for six months.

4. Heard Mr.R.Shajahan, learned counsel for the petitioner and Dr.C.E.Pratap, learned Government Advocate (Crl.Side) appearing for the respondent/State.

5. (i) The learned counsel appearing for the petitioner would submit that in his cross examination, PW1 had admitted that he had not



written the complaint and it was only written by the police; that there are several arguable points in the above appeal, which require consideration; that the petitioner is in custody from the date of arrest i.e., 28.05.2023 till this date; and that therefore, the sentence imposed on the petitioner may be suspended.

6. The learned Government Advocate (Crl. Side) appearing for the respondent/State, confirmed the said fact that the petitioner is in custody from 28.05.2023 and he would further submit that the prosecution had established the offence under Section 307 of the IPC by examining PW1 and the doctor and that the petitioner has not made out any case for suspension of sentence.

7. Heard the rival submissions made on either side and perused the counter affidavit filed by the respondent.

8. Considering the submissions made by the learned counsel for the petitioner that there are several arguable points in the appeal, which require consideration; that the appeal is not likely to be taken up in the near future; and the fact that the petitioner is in custody since



28.05.2023, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

9. Accordingly, this criminal miscellaneous petition stands **allowed**. The sentence imposed on the petitioner is suspended and the petitioner is ordered to be released on bail 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 XVII Additional District and Sessions Judge, 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.



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Issue order copy 16.12.2024

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SUNDER MOHAN, J.

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- To
- 1.The XVII Additional District and Sessions Judge,
Chennai.
 2. The Inspector of Police,
B2-Esplanade Police Station,
Flower Bazaar Street, Chennai.
 3. The Superintendent of Prisons,
Central Prison, Puzhal, Chennai.
 4. The Public Prosecutor,
Madras High Court.

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