



Crl.M.P.No.19919 of 2023
in Crl.A.No.1631 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2024

CORAM:

**THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN**

Crl.M.P.No.19919 of 2023
in Crl.A.No.1631 of 2023

1.Sekar

2.Venkatesan

... Petitioners

Vs.

The State rep. by
Inspector of Police,
Peramanallur Police Station,
Thiruvannamalai District.
Crime No.498/2018

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) r/w. 439 of the Criminal Procedure Code, seeking to suspend the sentence imposed in S.C.No.182 of 2019 dated 29.11.2023 passed by the learned Additional District and Sessions Judge, (Fast Track Court) Arni and enlarge them on bail pending criminal appeal.

For Petitioners : Mr.B. Sundarapandiyan

For Respondent : Mr.E. Raj Thilak,
Additional Public Prosecutor



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ORDER

*(Order of the Court was delivered by **SUNDER MOHAN, J.**)*

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed on the petitioners/accused by the learned Additional District and Sessions Judge, (Fast Track Court) Arni on 29.11.2023 in S.C.No.182 of 2019 and enlarge them on bail, pending disposal of the Criminal Appeal.

2. The learned Additional District and Sessions Judge, (Fast Track Court) Arni, in S.C.No.182 of 2019, has convicted the petitioners/accused and sentenced them as follows:-

<i>Accused</i>	<i>Offence</i>	<i>Sentence imposed</i>
A1	Section 341 of IPC Section 323 IPC Section 302 of IPC	1 month simple imprisonment, 1 year simple imprisonment, Life imprisonment and a fine of Rs.2,000/- in default of payment fine 2 years simple imprisonment.



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A2	Section 341 of IPC Section 302 IPC	1 month simple imprisonment; Life imprisonment and imposed a fine of Rs.2,000/- in default of payment of fine 2 years simple imprisonment
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3. Challenging the above conviction and sentence, the petitioners/accused, have filed the above Criminal Appeal and they seek suspension of sentence and bail in the present miscellaneous petition.

4. Heard Mr.B. Sundarapandiyan, learned counsel appearing for the petitioners and Mr.E. Raj Thilak, learned Additional Public Prosecutor, appearing for the respondent/Police.

5. The case of the prosecution is that the deceased was deaf and dumb and he was the son of P.W.1; that the deceased had threatened the grandson of the first petitioner due to a petty quarrel; that when the petitioners/accused had questioned the deceased about the incident on 23.10.2018, the deceased locked the house of the first petitioner when the petitioners were inside the house; that the petitioners were enraged by the



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said act and that on 23.10.2018 at about 14.00 hours, they tied the deceased in an almond tree in front of the first petitioner's house and assaulted the deceased with hands and caused his death.

6. The learned counsel for the petitioner submitted that the motive for the occurrence has not been established and none of the other circumstances have been proved by the prosecution; that the father of the deceased himself admitted that the deceased was tied in a neighbouring village where he was beaten by the villagers, suspecting him to be a thief, on 22.10.2018 i.e., one day before the date of death of the deceased and hence, the prosecution's case that the petitioners tied him in a tree in front of their house, is improbable. The learned counsel further submitted that the second petitioner was taking treatment in the Prison Hospital and a surgery was performed for an ailment and his health condition is poor.

7. Per contra, the learned Additional Public Prosecutor appearing for the respondent/Police submitted that the prosecution has established the case beyond reasonable doubt and the Trial Court had rightly convicted the petitioners for the offence alleged and the petitioners have



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not made out any case for suspension of sentence.

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

9. P.W.1 in his deposition has stated that he was not aware of the contents of the complaint said to have been made by him. He would also submit that the deceased was deaf and dumb and was earlier treated for mental illness. P.W.1 had not spoken about the motive alleged by the prosecution. On the other hand, he had admitted that on 22.10.2018, the deceased was beaten by the people of the neighbouring village, after tying him to a tree since they suspected him to be a thief.

10. Considering the above facts and that the motive and other circumstances have not been established by the prosecution, we are *prima facie* convinced that the petitioners have fair chances of succeeding in the appeal. Hence, we are inclined to suspend the sentence.

11. Accordingly, this Criminal Miscellaneous Petition stands



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allowed and the sentence of imprisonment imposed on the petitioners is suspended on the following conditions:

- (i) The petitioners shall execute a bond for a sum of Rs.25,000/- each, with two sureties each, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Additional District and Sessions Judge, (Fast Track Court) Arni;
- (ii) The petitioners 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 petitioners 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 they are not able to appear before the trial Court on any day, they 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 their absence, as directed by the trial Court.



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(M.S.R, J.)

(S.M, J.)

29.01.2024

Index: Yes/No

Sni

Note: Issue Order Copy on 30.01.2024



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- To
- 1.The Judicial Magistrate,
Arni.
 - 2.The Inspector of Police,
Peramanallur Police Station,
Thiruvannamalai District.
 - 3.The Superintendent,
Central Prison,
Vellore.
 - 4.The Public Prosecutor,
High Court,
Madras.
 - 5.The Additional District and Sessions Judge,
(Fast Track Court) Arni.



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

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