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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the Fifth day of July Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA
and
The Hon`ble Mr.Justice K. RAJASEKAR

CRL MP(MD) No.15033 of 2023
in
CRL A(MD)No.952 of 2023

JOHNSON KUMAR

... APPELLANT/ACCUSED 3

Vs

THE INSPECTOR OF POLICE
SAMAYAPURAM POLICE STATION,
TRICHIRAPPALLI.
(CRIME NO.665/2015).

... RESPONDENT/COMPLAINANT

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence of imprisonment imposed on the Petitioners in SC no.245/2018 on the file of the Learned II Additional District and Sessions Judge, Trichirappalli by a Judgment dated 25/9/2023 and enlarge the petitioner on bail, pending disposal of the Criminal Appeal No.952 of 2023.

PRAYER in CRL A(MD)No.952 of 2023:

To call for the records and set aside the judgment and sentence dated 25.09.2023 in S.C.No.245 of 2018 on the file of the Learned II- Additional District & Sessions Judge, Trichirapalli.



Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.N.R.ELANGO, Senior counsel for Mr.A.S.ASWIN PRASANNA, Advocate for the petitioner and of Mr.A.THIRUVADIKUMAR, Additional Public Prosecutor on behalf of the Respondent, the Court made the following order:-

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

Seeking to suspend the sentence imposed on the petitioner by the learned II Additional District and Sessions Judge, Trichirappalli, *vide* Judgment dated 25.09.2023 in S.C.No.245 of 2018, he has filed this criminal miscellaneous petition.

2. The petitioner stands convicted and sentenced as under:

Section of Law	Sentence of imprisonment	Fine amount
120(B) r/w 302 I.P.C.	To undergo life imprisonment	Rs.2000/-

3. The case of the prosecution is that the deceased was an Advocate and during 1996 to 2011, he was the Panchayat President of Madakudi Panchayat and there was enmity regarding Panchayat election between him and A1. The deceased along with



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others had committed murder of A1's brother's son. A2 and A3 (petitioner herein) had been duped by the deceased in the real estate business and as such, they had a grudge as against the deceased. While that being so, on 16.12.2015, at about 08.50 p.m., near Samayapuram Main Road, A1, A6, A10 to A12 had cut the deceased indiscriminately. Three months prior to the said occurrence, there was a conspiracy to the said murder, in which, the petitioner had participated.

4. Learned Senior Counsel appearing for the petitioner would submit that the petitioner has been implicated only based on the evidence of P.W.15, who is said to be the witness for conspiracy. The evidence of P.W.15 cannot be believed. Though P.W.15 is stated to be a relative of the deceased, he had not informed about the conspiracy immediately to the respondent – Police and had informed the same only after two weeks of the occurrence, thereby, his evidence cannot be given credit to. The petitioner was not available in the place of occurrence and there is no material to implicate him as an accused in this case. Further, the major motive is attributed as against A1 and even as per the prosecution case, A1, A6, A10 to A12 are the persons, who have committed the murder. Further, there are several arguable points in favour of the petitioner and the likelihood of the appeal being taken up for final hearing in the near future is also not possible and therefore, he prayed for suspension of sentence.



5. The respondent – Police has filed a detailed counter affidavit.

6. Learned Additional Public Prosecutor appearing for the respondent – Police, on instructions, would submit that though P.W.15 has deposed that he had informed about the conspiracy only after two weeks of the occurrence, he has also deposed that out of fear to the accused, he had not informed the same immediately to the respondent – Police.

7. Learned counsel for the intervenor is not present.

8. Heard the learned counsel on either side and perused the materials available on record. We have also gone through the intervening application in CrI.M.P.(MD) No.16845 of 2023.

9. Having gone through the records and taking into consideration the facts and circumstances of the case that the petitioner has been implicated based on the evidence of P.W.15, who is stated to be the witness for conspiracy and the major motive is attributed as against A1 and A1, A6, A10 to A12 have only committed the murder, we are of the opinion that it is a fit case for grant of suspension of sentence to the petitioner.

10. Accordingly, the criminal miscellaneous petition is allowed and the substantive sentence of imprisonment alone imposed on the petitioner herein is suspended, subject to the following conditions:



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- i. The petitioner is directed to be enlarged on bail on executing a bond for Rs.25,000/- (Rupees twenty five thousand only) with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned learned II Additional District and Sessions Judge, Trichirappalli.
- ii. 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 passbook to ensure their identity.
- iii. The petitioner shall stay at Chennai and report before the Inspector of Police, Esplanade Police Station, Chennai, daily at 10.30 a.m., until further orders.
- iv. It is made clear that the petitioner shall not enter into the jurisdictional limits of the respondent Police Station until further orders.

sd/-

05/07/2024

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08/07/2024

Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

KRK

TO

1 THE II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, TRICHIRAPPALLI.



2 THE INSPECTOR OF POLICE
SAMAYAPURAM POLICE STATION, TRICHIRAPPALLI.

3 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:
THE INSPECTOR OF POLICE,
ESPLANADE POLICE STATION,
CHENNAI

+1 CC to M/s.R.L.DHILIPAN PANDIAN, Advocate (SR-7491[I] dated 05/07/2024)

ORDER
IN
CRL MP(MD) No.15033 of 2023
in
CRL A(MD)No.952 of 2023
Date :05/07/2024

SS/SAR- /08/07/2024/6P/7C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023