



WEB COPY



Crl.M.P.No.6745 of 2024
in Crl.A.No.454 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

Crl.M.P.No.6745 of 2024
in Crl.A.No.454 of 2024

Ajithkumar

... Petitioner

Vs.

The State Represented by its
The Inspector of Police
Uthukuli Police Station
(Crime No.928/2020)

... Respondent

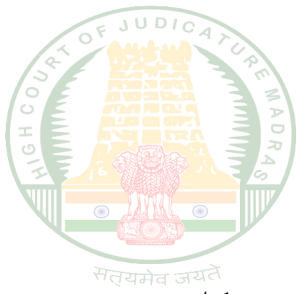
PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of the Criminal Procedure Code, praying to suspend the sentence imposed in S.C.No.138 of 2021, dated 22.11.2022, on the file of the learned Principal Sessions Judge, Tiruppur and enlarge the petitioner on bail, pending disposal of the above criminal appeal on the file of this Court.

For Petitioner : Ms.K.Akshaya

For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner



Crl.M.P.No.6745 of 2024
in Crl.A.No.454 of 2024

WEB COPY

/ 1st accused, who has been found guilty for the offence U/s.302 I.P.C. and sentenced to life imprisonment, apart from other sentences, by the learned Principal Sessions Judge, Tiruppur, dated 22.11.2022, in S.C.No.138 of 2021, as against the same, he has preferred the main appeal. This present application is for suspension of his sentence.

2. Learned Principal Sessions Judge, Tiruppur, in S.C.No.138 of 2021, has convicted the petitioner and sentenced him as follows:-

<i>Offence</i>	<i>Sentence imposed</i>
U/s.120(B) r/w 364 IPC	3 years R.I. along with a fine of Rs.1,000/- in default 3 months R.I.
U/s.120(B) r/w 302 IPC	Life imprisonment along with a fine of Rs.1,000/- in default 3 months R.I.
U/s.302 IPC	Life imprisonment along with a fine of Rs.1,000/- in default 3 months R.I.
U/s.364 r/w 109 IPC	3 years R.I. along with a fine of Rs.1,000/- in default 3 months R.I.
U/s.201 r/w 302 IPC	3 years R.I. along with a fine of Rs.1,000/- in default 3 months R.I.

3. Challenging the above convictions and sentences, the petitioner has filed the above Criminal Appeal and he seeks suspension of sentence and bail in the present miscellaneous petition.



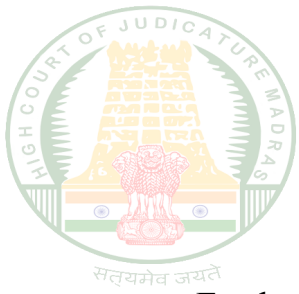
Crl.M.P.No.6745 of 2024
in Crl.A.No.454 of 2024

WEB COPY

4. Heard Ms.K.Akshaya, learned counsel appearing for the petitioner and Mr.S.Raja Kumar, learned Additional Public Prosecutor, appearing for the respondent Police.

5. The learned counsel for the petitioner would submit that the petitioner herein was arrested on 30.06.2020 and he is in incarceration from thereon. According to the learned counsel, the prosecution has put forth only two circumstances to prove the case before the trial Court. In the last seen theory, P.W.17 and P.W.18 who have been projected to have seen the accused with the deceased lastly, implicated only A2 and not this petitioner, and on this ground, she seeks for suspension of sentence.

6. Per contra, learned Additional Public Prosecutor would submit that A2, who was a juvenile at that relevant point of time, was subsequently convicted for the charged offences by the trial Court. He would further state that the last seen witnesses have placed the 2nd accused in the scene of occurrence and based on the 2nd accused's extra judicial confession, A1 was implicated and therefore there is strong evidence against A1 also.



Crl.M.P.No.6745 of 2024
in Crl.A.No.454 of 2024

Further, he placed reliance on the recovery of material objects used to commit the crime and hence sought for dismissal of the suspension of sentence.

7. In so far as the present petitioner / A1 is concerned, we find that P.W.17 and P.W.18 have not implicated his presence in the scene of occurrence, but have spoken about the presence of A2 alone. If the circumstance of last seen theory is not available for the prosecution as against this petitioner, the only other evidence available would be the recovery. It is a settled proposition of law that in a case of circumstantial evidence, each and every link in the chain of circumstances should be established, and the case cannot be rested only on one circumstance. In consideration of the grounds raised by the learned counsel for the petitioner, we are of the view that a *prima facie* case has been made out by the petitioner herein and that he may have a fair chance of success in the appeal. Hence, we are inclined to suspend the sentence.

8. Accordingly, this Criminal Miscellaneous Petition stands **allowed**



Crl.M.P.No.6745 of 2024
in Crl.A.No.454 of 2024

WEB COPY

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/- (Rupees Twenty Five Thousand only), with two sureties each, each for a like sum to the satisfaction of the learned Judicial Magistrate No.2, Kancheepuram;

(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;

(iii) The petitioner is directed to 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;



WEB COPY



Crl.M.P.No.6745 of 2024
in Crl.A.No.454 of 2024

M.S.RAMESH, J.
and
N.SENTHILKUMAR, J.

kas

(iv) On the failure of any of the above conditions by the petitioner / accused, it is open to the trial Court to commit the petitioner / accused into custody for undergoing the sentence.

(M.S.R, J.)

(N.S, J.)

19.03.2025

kas

Note: Issue Order Copy on 20.03.2025

To

1.The Principal Sessions Judge
Tiruppur

2.The Inspector of Police
Uthukuli Police Station

3.The Superintendent of Prison
Central Prison, Coimbatore

4.The Public Prosecutor
High Court of Madras
Chennai 600 104

Crl.M.P.No.6745 of 2024
in Crl.A.No.454 of 2024