



Crl.M.P.No.14070 of 2024
in Crl.A.No.1605 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2025

CORAM:

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

Crl.M.P.No.14070 of 2024
in Crl.A.No.1605 of 2023

Sankaralingam

... Petitioner

Vs.

State rep. by
The Inspector of Police,
Nettapakkam Police Station,
Puducherry.

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of the Criminal Procedure Code and 430(1) of BNSS, seeking to suspend the sentence of convicting the accused for life imprisonment order passed by the learned III Additional Sessions Judge, Puducherry in Sessions Case No.22/2017 dated 02.06.2023 and enlarge the appellant/accused on bail, pending disposal of the above Criminal Appeal.

For Petitioner : Mr.B.Balavijayan



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For Respondent : Mr.M.V.Ramachandramoorthy,
Pubic Prosecutor (Puducherry)

ORDER

(Order of the Court was made by *M.S.RAMESH, J.*)

The present miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by the learned III Additional Sessions Judge, Puducherry in S.C.No.22 of 2017 on 02.06.2023 and enlarge him on bail.

2. The Trial Court has found the accused guilty of having committed the offence under Section 302 IPC and sentenced him to undergo life imprisonment, together with a fine of Rs.10,000, in default to undergo 6 months simple imprisonment.

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



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4. Heard Mr.B.Balavijayan, learned counsel for the petitioner and Mr.M.V.Ramachandramoorthy, learned Public Prosecutor (Puducherry), appearing for the respondent/Police.

5. The learned counsel for the petitioner would submit that the entire incident occurred out of provocation from the deceased and the eyewitnesses have also confirmed that it was the deceased who attacked the petitioner with his hands. The learned counsel further submitted that the incident occurred owing to sudden and grave provocation.

6. The learned Additional Public Prosecutor appearing for the respondent, on the other hand, placed reliance on the evidences of P.W.2, P.W.3, P.W.7, P.W.8 and P.W.9, who are all eyewitnesses and who have cogently spoken about the events. He also referred to the medical evidences and submitted that there are several cut injuries on the body of the deceased and hence, sought for dismissal of the present application.



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7. It is not in dispute that there was no previous enmity between the deceased and the accused. The evidences of all the eyewitnesses also confirms that during the altercation, the deceased had first attacked the accused with his hands, which has resulted in retaliation by the accused. We also find some force in the submission of the learned counsel for the petitioner that there may be a possibility for modification of the sentence in view of his claim that the incident occurred due to provocation. This apart, we had also taken into account that though the CCTV footage had covered the entire incident, it was neither clear nor it was shown to the witnesses, as recorded by the Trial Court in its judgment. In this background, there may be a fair chance of the petitioner/accused to succeed in the appeal.

8. Accordingly, this Criminal Miscellaneous Petition stands **allowed**, and the sentence imposed on him, is suspended on the following conditions:-

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties each, for a like sum to the satisfaction of the learned III Additional Sessions



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Judge, Puducherry;

(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bonds 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.

(M.S.R, J.)

(N.S, J.)

08.04.2025

Index: Yes/No

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Note: Issue Order Copy on 09.04.2025



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

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To

- 1.The III Additional Sessions Judge,
Puducherry.
- 2.The Inspector of Police,
Nettapakkam Police Station,
Puducherry.
- 3.The Superintendent,
Central Prison, Puducherry.
- 4.The Public Prosecutor,
High Court, Madras.

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