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*Crl.M.P.No.17514 of 2024
in Crl.A.No.1538 of 2024*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.17514 of 2024

in

Crl.A.No.1538 of 2024

Kalaiselvan

... Petitioner / Accused

Vs.

State rep by
The Inspector of Police,
Muthandikuppam Police Station,
Cuddalore District.

(Cr.No.23 of 2018)

... Respondent / Complainant

Prayer: Criminal Miscellaneous Petition has been filed under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhita praying to suspend the sentence imposed against the petitioner in S.C.No.196 of 2018 on the file of the learned Sessions Judge, Mahila Court, Cuddalore, Cuddalore District dated 06.11.2024 and enlarge the petitioner on bail pending disposal of the criminal appeal.



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For Petitioner : Mr.E.Kannadasan
For Respondent : Dr.C.E.Pratap
Government Advocate (Crl.Side)

ORDER

The Criminal Miscellaneous Petition has been filed to suspend the sentence imposed against the petitioner in S.C.No.196 of 2018 on the file of the learned Sessions Judge, Mahila Court, Cuddalore, Cuddalore District dated 06.11.2024 and enlarge the petitioner on bail pending disposal of the criminal appeal.

2. The case of the prosecution is that the defacto complainant's younger daughter was married to the petitioner; that the petitioner demanded 20 sovereigns of gold jewels and Rs.1 Lakh for the purchase of a two wheeler; that since the victim's family members could not comply with the said demand, the petitioner and his relatives had committed cruelty in connection with the said demand of dowry and unable to bare the torture, the victim consumed rat poison and died on 06.02.2018 at 12.50 p.m.



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3. The petitioner/accused in S.C.No.196 of 2018 was convicted by the learned Sessions Judge, Mahila Court, Cuddalore, Cuddalore District for the offences under Section 498(A) IPC and sentenced to undergo rigorous imprisonment for 3 years with fine amount of Rs.5,000/-, in default to undergo 1 month simple imprisonment and for the offence under Section 304-B IPC and was sentenced to under 7 years of rigorous imprisonment. Aggrieved by the said order, the petitioner/accused filed Crl.A.No.1538 of 2024 before this Court along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. The learned counsel for the petitioner would submit that the investigation was conducted in a biased manner and the investigating officer had admitted that even before the receipt of the RDO report, he had altered the offences; and that the witnesses have spoken in a parrot-like manner and the evidence would show that the victim was not subjected to cruelty on account of dowry demand and he prayed for suspension of sentence.

5. Heard the learned counsel for the learned Government Advocate (Crl.Side) for the respondent and perused the records, including the counter



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affidavit filed by the respondent.

6. This Court has to examine the above appeal as to whether the petitioner had rebutted the statutory presumption under Section 113B of the Evidence Act. According to the petitioner, the investigation was conducted in a biased manner. The petitioner has raised substantial grounds in the above appeal, which requires consideration. The appeal is not likely to be taken up in the near future. Considering the fixed period of sentence imposed by the trial Court, this Court is inclined to grant suspension of sentence to the petitioner till the disposal of the above Appeal and the petitioner is ordered to be released on bail on the following conditions:

(i) The sentence of imprisonment alone, imposed on the petitioner/accused shall be suspended, on him executing a bond for a sum of Rs.10,000/- with two sureties, each for a likesum to the satisfaction of the learned Sessions Judge, Mahila Court, Cuddalore, Cuddalore District.

(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



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ensure their identity;

(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.

7. Accordingly, the Criminal Miscellaneous Petition is ordered.

30.01.2025
(2/2)

Anu

Issue order copy by 31.01.2025
Upload the order copy forthwith.

To

1.The Sessions Judge, Mahila Court, Cuddalore, Cuddalore District

2.The Superintendent,
Central Prison, Cuddalore

3.The Inspector of Police,
Muthandikuppam Police Station,
Cuddalore District.



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SUNDER MOHAN, J.
Anu

4.The Public Prosecutor,
High Court, Madras.

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