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Crl.M.P.No.1519 of 2025
in Crl.A.No.768 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.1519 of 2025
in Crl.A.No.768 of 2023

Manoj @ Manoj Kumar ... Petitioner/A1
Vs.

The State Rep. By
Inspector of Police,
T.R.Pattinam Police Station, Karaikkal.
[Crime No.106/2019] ... Respondent/complainant

PRAYER: Criminal Miscellaneous Petition filed under Section 430(1) of BNSS, to suspend the sentence of imprisonment made against the petitioner/ appellant in the case in S.C.No.7 of 2021 dated 10.07.2023 on the file of the District and Sessions Court, Karaikkal and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.J.Milton Arul Rajendran

For Respondent : Mr.A.V.Ramachandramurthy,
APP (Puducherry)
Assisted by Mr.A.Alexander,
Govt. Advocate (Puducherry)

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence of imprisonment imposed in S.C.No.7 of 2021, dated



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10.07.2023 by the learned District and Sessions Judge, Karaikkal and to enlarge the petitioner on bail pending disposal of the appeal.

2.The case of the prosecution is that the petitioner/A1 was working as a Cashier in Jenitha Bar; that A2 & A3 were also working in the same Bar; that the deceased was working as Watchman in the said Bar; that on the date of alleged occurrence, the deceased requested the petitioner/A1 to give cash for having dinner; and that an altercation took place, as a result of which, the petitioner/A1 is said to have attacked the deceased with wooden log on his head and body and A2 and A3 are said to have held the hands of the deceased.

3.The petitioner/A1 was convicted by the trial Court for the offence under Section 304(ii) r/w 34 of IPC and sentenced to undergo ten years Rigorous Imprisonment and to pay a fine of Rs.2,000/-, in default to undergo three months imprisonment vide judgment, dated 10.07.2023 made in S.C.No.7 of 2021.

4. Heard Mr.J.Milton Arul Rajendran, learned counsel for the petitioner and Mr.A.V.Ramachandramurthy, learned Additional Public



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Prosecutor (Puducherry) appearing for the respondent Police.

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5.The learned counsel for the petitioner would submit that the petitioner is not involved in the offence; that this Court had suspended the sentence imposed on A2 and A3; that the petitioner stands on the same footing and the reasons assigned by this Court for suspending the sentence to A2 and A3, would be applicable to the petitioner also and prayed for suspension of sentence, since the petitioner is in custody from 10.07.2023.

6.The learned Additional Public Prosecutor (Puducherry) *per contra* would submit that this is the third application for suspension of sentence and the second application of the petitioner was dismissed on 19.07.2024 by this Court, considering the seriousness of the offence and since there is no change of circumstances; and hence, the petition for suspension of sentence may be dismissed.

7.In response, the learned counsel for the petitioner would submit that the vital points were not raised before this Court when the bail



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applications were considered earlier; and that considering the period of incarceration, the sentence of the petitioner may be suspended.

8. On perusal of the records, it is seen that even as regards the co-accused, this Court had considered the third bail petition and had observed as follows:

“8. On perusal of the records, it is seen that the complaint was lodged 24 hours after the alleged occurrence; that there are no eye witnesses to the occurrence and the case rests on the evidence of PW1 and PW2 to whom the deceased is said to have made a statement; that PW1 had not accompanied the deceased to the hospital; and that the Nurses/PW7 & PW8 who had treated the deceased at the hospital had not noticed any injury on the deceased. Thus, there is force in the submissions made by the learned counsel for the petitioners.

9. Considering the above facts and the fact that there are substantial grounds in the appeals which require consideration; and that the petitioners are in custody from 10.07.2023, this Court is inclined to grant the relief of suspension of sentence. The learned Public Prosecutor, Puducherry would submit that the petitioners may be directed to stay at Puducherry for sometime.”

9. The above said observations are applicable to the petitioner also. Accordingly, criminal miscellaneous petition stands allowed and the sentence imposed on the petitioner/A1 is suspended and the petitioner is



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ordered to be released on bail on the following conditions:

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(i)The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, each for a like sum to the satisfaction of the learned District and Sessions Judge, Karaikkal;

(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 shall appear before the trial Court on the first working day of every month at 10.30 a.m., until further orders 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; and

(iv)The petitioner shall stay at Puducherry and report before the Station House Officer, Grand Bazar Police



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Station, Puducherry daily at 10.30 a.m., until further orders,
except on the date when he is directed to appear before the
Trial Court.

31.01.2025

ars

Issue order copy by 04.02.2025.

Upload the order copy forthwith.



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SUNDER MOHAN, J.

ars

To

- 1.The District and Sessions Judge,
Karaikkal.
- 2.The Inspector of Police,
T.R.Pattinam Police Station, Karaikkal.
- 3.The Station House Office,
Grand Bazar Police Station,
Puducherry.
- 4.The Central Prison,
Puducherry.
- 5.The Public Prosecutor,
Madras High Court.

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