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*Crl.M.P.No.18589 of 2024
in Crl.A.No.1671 of 2024*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.18589 of 2024

in

Crl.A.No.1671 of 2024

Ellappa @ Meesakara Ellappa

...Petitioner/Appellant/Accused

Vs.

State By:

The Inspector of Police,
Shoolagiri Police Station,
Hosur Taluk,
Krishnagiri District.
(Crime No.14 of 2014)

... Respondent/Respondent/Complainant

PRAYER: Criminal Miscellaneous Petition has been filed under Section 430 of the BNSS, 2023, praying to suspend the sentence imposed in the judgment dated 26.11.2024 in S.C.No.63 of 2021, on the file of the learned Additional District and Sessions Judge, Hosur, pending disposal of the Criminal Appeal and enlarge the petitioner on bail.

For Petitioner : Ms.U.Ramya

For Respondent : Dr.C.E.Pratap
Govt. Advocate (Crl.side)



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ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner in S.C.No.63 of 2021 dated 26.11.2024 on the file of the learned Additional District and Sessions Judge, Hosur and release the petitioner on bail pending disposal of the above Criminal Appeal.

2. The case of the prosecution is that the deceased is the son of the petitioner; that there was a previous enmity due to a property dispute and due to that, on 14.01.2014, at about 6.30 p.m., when the deceased went to catch a bull, there was a wordy quarrel between the petitioner and the deceased; that thereafter, the petitioner took a wooden log and attacked the deceased on the right side of the head and stomach, which caused injury to the deceased and thereafter, the deceased succumbed to the injuries.

3. The petitioner/accused in S.C.No.63 of 2021 was convicted by the Trial Court by judgment dated 26.11.2024 for the offence under Section 304(ii) of the I.P.C. and sentenced to undergo 10 years of simple imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo 3 months of simple



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imprisonment. Aggrieved by the same, he filed Crl.A.No.1671 of 2024 before this Court along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. Ms.U.Ramya, the learned counsel for the petitioner/appellant, would submit that the presence of P.W.1, the wife of the deceased, in the scene of occurrence is highly doubtful as the complaint was given on the next day after the alleged occurrence; that the evidence would disclose that the deceased was attacked by the bull; that the mother of the deceased and the wife of the petitioner, who was originally cited by the prosecution as an eyewitness, was not examined; and that there are several arguable points in the above appeal that require consideration and prayed for suspension of sentence.

5. Heard the learned Government Advocate (Crl.Side) for the respondent and perused the counter affidavit filed on the side of the State.

6. It is seen that though the mother of the deceased was cited as a witness, she was not examined by the prosecution. However, she was examined by the defence to show that the occurrence did not take place in the



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manner alleged by the prosecution. Whether the conviction can be based on the evidence of P.W.1, who had lodged the complaint one day after the occurrence, has to be examined in the above appeal. The appeal is not likely to be taken up in the near future.

7. Considering the above, the nature of allegations, the fixed period of sentence imposed on the petitioner/accused/appellant, and the period of incarceration suffered by the petitioner, this court is inclined to grant the relief of suspension of sentence to the petitioner.

8. Accordingly, this criminal miscellaneous petition stands **allowed**, and the sentence imposed on the petitioner is suspended till the disposal of the above Criminal appeal, and the petitioner is ordered to be released on bail on the following conditions:

- (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 Additional District and Sessions Judge, Hosur;



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(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; 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.

20.01.2025

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Issue order copy by 21.01.2025
Upload the order copy forthwith.

To

- 1.The Additional District and Sessions Judge,
Hosur.
- 2.The Superintendent,
Central Jail
Salem.



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SUNDER MOHAN, J.

dk

3.The Inspector of Police,
Shoolagiri Police Station,
Hosur Taluk,
Krishnagiri District.

4.The Public Prosecutor,
High Court, Madras.

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