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Crl.M.P.No.3890 of 2023
in Crl.A.No.1182 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE **S.S. SUNDAR**
AND
THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

Crl.M.P.No.3890 of 2023
in
Crl.A.No.1182 of 2022

Parameswari

... Petitioner

Vs.

State by Inspector of Police,
Kallakurichi Police Station,
Kallakurichi District.

... Respondent

Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. to suspend the sentence of imprisonment imposed in the judgment dated 22.09.2022 made in S.C. No.82 of 2021 on the file of the III Additional District Court, Kallakurichi and enlarge the petitioner on bail pending disposal of the criminal appeal.

For Petitioner : Mr.V.R.Kamalanathan
for Mr.V.Gunasekar

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor



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ORDER

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

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed by the III Additional District and Sessions Judge, Kallakurichi in S.C. No.82 of 2021 dated 22.09.2022, and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

2. The learned III Additional District and Sessions Judge, Kallakurichi in S.C. No.82 of 2021, has convicted and sentenced the petitioner/accused as follows :

| <i>Offence for which Convicted</i> | <i>Sentence</i> |
|--|--|
| 309 IPC | Simple imprisonment for one year and to pay a fine of Rs.5,000/-, in default to undergo six months simple imprisonment |
| 302 IPC | Life imprisonment and to pay a fine of Rs.10,000/-, in default to undergo six months simple imprisonment |
| Sentences were ordered to run concurrently | |

3. Challenging the above conviction and sentence, the petitioner, who is the sole accused, has filed the above Criminal Appeal and she is seeking suspension of sentence and bail in the present miscellaneous petition.



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4. This is an unfortunate case where a mother of three children is accused of having murdered her elder daughter and also attempted to commit suicide by consuming poison after administering it to her daughter. Based on the complaint by the de facto complainant, who is none else than the husband of the petitioner/accused, a case was registered for the alleged offences under Sections 309 and 302 of IPC. P.W.1, who is the neighbour of the petitioner/accused has deposed that the petitioner and her child consumed poison, he took the child alone to Government Hospital, Kallakurichi for treatment and thereafter the child died at Salem Hospital. From the overall facts, it is seen that the accused, who was unable to repay the loan taken from Women Self Help Group for family expenses, out of frustration, had committed the crime with the intention to cause her death by consuming poison. This Court finds that there is no intention to commit murder and she falls within the exception and at best she can be prosecuted for an offence under Section 304 (II) IPC where there is no minimum sentence prescribed.

5. Having regard to the period of incarceration undergone by the



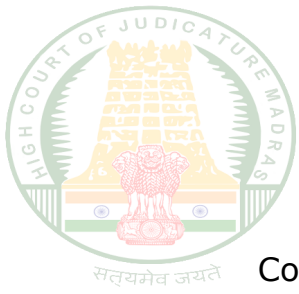
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petitioner/accused, this Court is inclined to suspend the sentence.

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6. Accordingly, this Criminal Miscellaneous Petition stands **allowed** and the sentence of imprisonment imposed on the petitioner is **suspended** and she is granted bail on the following conditions:

- (i) Petitioner shall execute a bond for a sum of Rs.25,000/-, each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned III Additional District and Sessions Judge, Kallakurichi.
- (ii) 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 she is not able to appear before the trial Court on any day, she 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 her absence, as directed by the trial



Court.

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(S.S.S.R., J.) (S.M., J.)
17.10.2023

Index : Yes / No
Neutral Citation: Yes/No
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To

- 1.The III Additional District and Sessions Judge,
Kallakurichi.
- 2.The Inspector of Police,
Kallakurichi Police Station,
Kallakurichi District.
- 3.The Superintendent,
Special Prison for Women, Cuddalore.
- 4.The Public Prosecutor,
High Court, Madras.

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