



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the Second day of February Two Thousand Eighteen

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PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL MP(MD) No.255 of 2018

IN

CRL A(MD) No.23 of 2018

1 ASRAFF

2 HUMSHA

... PETITIONERS/APPELLANTS/ACCUSED

Vs

STATE THROUGH
THE S.I. OF POLICE,
RAILWAY POLICE STATION,
MADURAI.

IN CR.NO.153/2014.

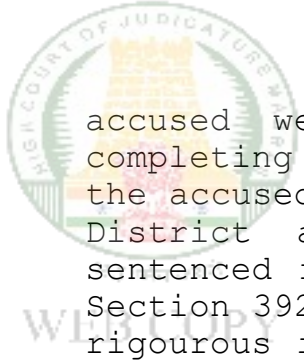
... RESPONDENT/RESPONDENT/COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to enlarge the Petitioners/appellants/accused on bail by suspending the sentence imposed by the learned V-Additional Sessions Judge, Madurai, Madurai District has passed an order in S.C.No.482 of 2016 vide her judgment dated 11.12.2017 pending the disposal of the above main Criminal Appeal and thus render justice.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.C.KANNAN, Advocate for the petitioner and of M/S.S.BHARATHI, Government Advocate (Crl.Side) on behalf of the Respondents the court made the following order:-

It is the case of the prosecution that P.W.4 and P.W.5 came to Madurai and after visting Meenakshi Amman Temple, boarded the Madurai - Rameshwaram Train on 15.12.2014. The accused were travelling with P.Ws.4 and 5. P.Ws.4 and 5 wanted tea and so, they called a tea vendor. But, unfortunately, they did not have change. Therefore, they did not purchase tea. This was being watched by the accused and the accused offered tea to the old ladies, which they accepted. After P.Ws.4 and 5 having tea, both of them became unconscious and they regained their conscious on the next day. To their shock, they found the gold jewel ornaments missing.

2. On the complaint lodged by P.W.1, the son of P.W.4, FIR was registered and the investigation was taken by the police. The



accused were arrested and the ornaments were seized. After completing the investigation, the police filed a charge sheet and the accused were tried in S.C.No.482 of 2016 by the Fifth Additional District and Sessions Judge, Madurai and were convicted and sentenced for the offence under Section 328 r/w Section 34 IPC and Section 392 r/w Section 34 IPC, to undergo the maximum of five years rigorous imprisonment and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only) each, challenging which, the accused have filed the present appeal.

3. The learned counsel appearing for the petitioners / accused submitted that the accused have been falsely implicated in this case. The complaint in this case itself has been given belatedly by P.W.1. He also submitted that there is a doubt in the recovery of ornaments. The learned counsel appearing for the petitioners / accused further submitted that the accused are in prison for the last 1 ½ years.

4. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent refuted the contention.

5. This Court gave its anxious consideration to the rival submissions.

6. The law relating to suspension of sentence and bail has been settled inasmuch as the Court should take into consideration the nature of the evidence on record and the gravity of the offence. As regards the contention of the learned counsel appearing for the petitioners / accused that there is a delay in FIR, it is seen that only after P.W.Nos.4 and 5 regained their conscious, they have identified A1 and A2 as the co-passengers, who offered them tea.

7. This Court, taking into consideration the gravity of the allegations, this is not a fit case for grant of bail at this stage. Registry is directed to prepare the appeal and list the same immediately. If the appeal is disposed of within a period of six months, liberty is given to the petitioners to file a fresh application for bail.

8. In the result, this Criminal Miscellaneous Petition is dismissed.

sd/-
02/02/2018

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



1 THE V ADDITIONAL DISTRICT AND SESSIONS JUDGE,
MADURAI

2 SUB INSPECTOR OF POLICE, RAILWAY POLICE STATION, MADURAI.

3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP (MD) No.255 of 2018
IN
CRL A (MD) No.23 of 2018
Date :02/02/2018

PK/PM-PN/SAR-4/12.02.2018 : 3P/5C