



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

Friday, the First day of March Two Thousand Nineteen

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.1478 of 2019
IN CRL A(MD) No.131 of 2012

MUTHU

... PETITIONER/ APPELLANT/A2

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
THIRUCHENDUR TEMPLE POLICE STATION,
THIRUCHENDUR, THOOTHUKUDI DISTRICT.
CRIME NO.328/09

... RESPONDENT/ RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence and grant bail to the petitioner in SC.No.269 of 2011 on the file of the I Additional District and Sessions Judge, Thoothukudi dated 25.06.2012 pending disposal of the criminal appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.ANTONY.S.PRABAHAR, Advocate for the petitioner and of Mr.A.ROBINSON, Government Advocate(Crl.Side) on behalf of the Respondent, the court made the following order:-

The learned counsel for the petitioner submitted that the petitioner has been convicted by the learned trial Judge for the alleged offences under Section 324 I.P.C and sentenced to under go rigorous imprisonment for a period of two years and to pay a fine of Rs.500/- in default to undergo rigorous imprisonment for a further period of six months in S.C.No.269 of 2011, on the file of the learned I Additional District and Sessions Judge, Thoothukudi.

2.It is submitted by the learned counsel for the petitioner on 22.01.2019, when the appeal was listed before this Court, the petitioner was unable to attend the Court and hence, this Court cancelled the suspension of sentence granted to the petitioner dated 10.07.2012 in M.P.(MD)No.1 of 2012 in Crl.A.(MD)No.131 of 2012 and hence the petitioner was arrested and remanded to judicial custody and also there are several infirmities in the prosecution case and further there are contradictions in materials among the evidence of the prosecution witnesses.



3.It is submitted by the learned Government Advocate (criminal side) that there are enough materials available on record against the petitioner as per the evidence adduced by the prosecution and there is no infirmity in the prosecution case and prays for dismissal of this petition.

4.This Court has carefully considered the rival contentions put forward by their side and also perused the materials available on record.

5.The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

6.Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that the petitioner executing 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 I Additional District and Sessions Judge, Thoothukudi and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m pending appeal.

sd/-

01/03/2019

/ TRUE COPY /

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

TO

1. THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE,
THOOTHUKUDI.
2. THE INSPECTOR OF POLICE
THIRUCHENDUR TEMPLE POLICE STATION,
THIRUCHENDUR, THOOTHUKUDI DISTRICT.
3. THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to MR.ANTONY.S.PRABAHAR Advocate SR.No.4070

ORDER IN

CRL MP(MD) No.1478 of 2019 IN

CRL A(MD) No.131 of 2012

Date :01/03/2019