

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2021

CORAM

THE HON'BLE MR. JUSTICE **P.N.PRAKASH**
AND
THE HON'BLE MR. JUSTICE **V.SIVAGNANAM**

Crl.M.P.No.2604 of 2021
in Crl.A.No.513 of 2020

Selvakumar

.. Petitioners/Accused

Vs.

State represented by
The Inspector of Police,
Polur Police Station.
(Crime No.346 of 2015)

.. Respondent/Complainant

Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. to
suspend the sentence imposed on the petitioner by judgment and order dated
17.03.2020 passed in S.C.No.60 of 2018 on the file of the Principal District
and Sessions Court, Thiruvannamalai and to enlarge the petitioner on bail
pending the disposal of the appeal.

For Petitioner : Mr.A.E.Ravichandran

For Respondent : Mr.K.Prabhakar
Additional Public Prosecutor

ORDER

(Order of the Court was made by *V.SIVAGNANAM, J.*)

This criminal miscellaneous petition has been preferred seeking to suspend the sentence imposed on the petitioner by judgment and order dated 17.03.2020 passed in S.C.No.60 of 2018 on the file of the Principal District and Sessions Court, Thiruvannamalai and to enlarge the petitioner on bail pending the disposal of the appeal.

2. In this case, three accused were convicted and sentenced by the trial Court viz., Chandrasekar (A1), Selvakumar (A2) and Mohan (A3). Challenging the conviction and sentences, Chandrasekar (A1) file Crl.A.No.225 of 2020 and Selvakumar (A2) and Mohan (A3) filed Crl.A.No.513 of 2020. All the three accused filed Crl.M.P.No.5209 of 2020 in Crl.A.No.225 of 2020 and Crl.M.P.No.8239 of 2020 in Crl.A.No.513 of 2020 seeking suspension of sentence and bail. In these two petitions, this Court was pleased to grant suspension of sentence and bail by order dated 22.12.2020 to all the three accused. However, in paragraph no.6 of the order dated 22.12.2020, a typographical error was found, which reads as under:

“As against A1 and A3, the sentence itself is for a period of two years. Thus, considering the above, we are inclined to suspend the sentence.”

3. In the above extracted sentence, instead of typing “A2”, it was inadvertently typed as “A1”. Therefore, Selvakumar (A2) was not able to enjoy the benefits of the bail.

4. When this was brought to the notice of this Court, this Court, by order dated 04.02.2021, gave special permission to Selvakumar (A2) to file a fresh petition for suspension of sentence and bail. Accordingly, this present criminal miscellaneous petition has been filed by Selvakumar (A2).

5. Selvakumar (A2), who was the second accused in S.C.No.60 of 2018 before the Principal District and Sessions Court, Thiruvannamalai, was convicted and sentenced as follows on 17.03.2020:

S.No.	<i>Provision under which convicted</i>	<i>Sentence</i>
1	Section 148 IPC	Two years rigorous imprisonment and fine of Rs.1,000/-, in default to undergo one month simple imprisonment, each.
2	Section 506 (II) IPC	
3	Section 323 IPC (2 counts)	One year rigorous imprisonment and fine of Rs.1,000/-, in default to undergo one month simple imprisonment.

The aforesaid sentences were ordered to run concurrently.

6. Challenging the above conviction and sentence, Selvakumar (A2) has filed Crl.A.No.513 of 2020 along with the instant miscellaneous petition seeking suspension of sentence and bail.

7. Heard Mr.A.E.Ravichandran, learned counsel for Selvakumar (A2) and Mr.K.Prabhakar, learned Additional Public Prosecutor appearing for the respondent/State.

8. Selvakumar (A2) has raised substantial grounds in the appeal which require detailed appraisal. The learned counsel for Selvakumar (A2) stated that since Selvakumar (A2) was sentenced only for two years of imprisonment, the trial Court has suspended the sentence imposed on Selvakumar (A2) under Section 389 (3) Cr.P.C and granted bail to him. In such view of the matter, this Court is of the view that Selvakumar (A2) is entitled to the relief of suspension of sentence and bail.

9. Accordingly, the relief of suspension of sentence and bail is granted to Selvakumar (A2) on the following conditions:

(i) Selvakumar (A2) shall execute a bond for a sum of

Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the I Additional District and Sessions Court, Salem;

- (ii) Selvakumar (A2) 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 to ensure their identity; and
- (iii) Selvakumar (A2) shall appear before the respondent/police everyday at 10.30 a.m. for a period of four weeks and thereafter, Selvakumar (A2) 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.

nsd

WEB COPY (P.N.P.,J.) (V.S.G.,J.)
03.03.2021

P.N.PRAKASH, J.
and
V.SIVAGNANAM, J.

nsd

To

1. The Principal District and Sessions Judge,
Thiruvannamalai.
2. The Inspector of Police,
Polur Police Station.
3. The Public Prosecutor,
Madras High Court,
Chennai – 600 104.

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P.N. PRAKASH, J.
and
V.SIVAGNANAM, J.

At the instance of the learned counsel for the petitioner, this matter is posted today under the caption "for being mentioned".

2. The learned counsel for the petitioner submitted that, at para no.9(i) of the order dated 03.03.2021, the Court to the satisfaction of which, bond should be executed, has been wrongly mentioned as "The I Additional District and Sessions Court, Salem," instead of, "The Principal District and Sessions Court, Thiruvannamalai" and hence, the same may be corrected and fresh order copy issued.

3. Acceding to the above request of the learned counsel for the petitioner, the Registry is directed to carry out the necessary correction and issue fresh order copy.

(P.N.P.J) (V.S.G.J)
26.04.2021

vsn

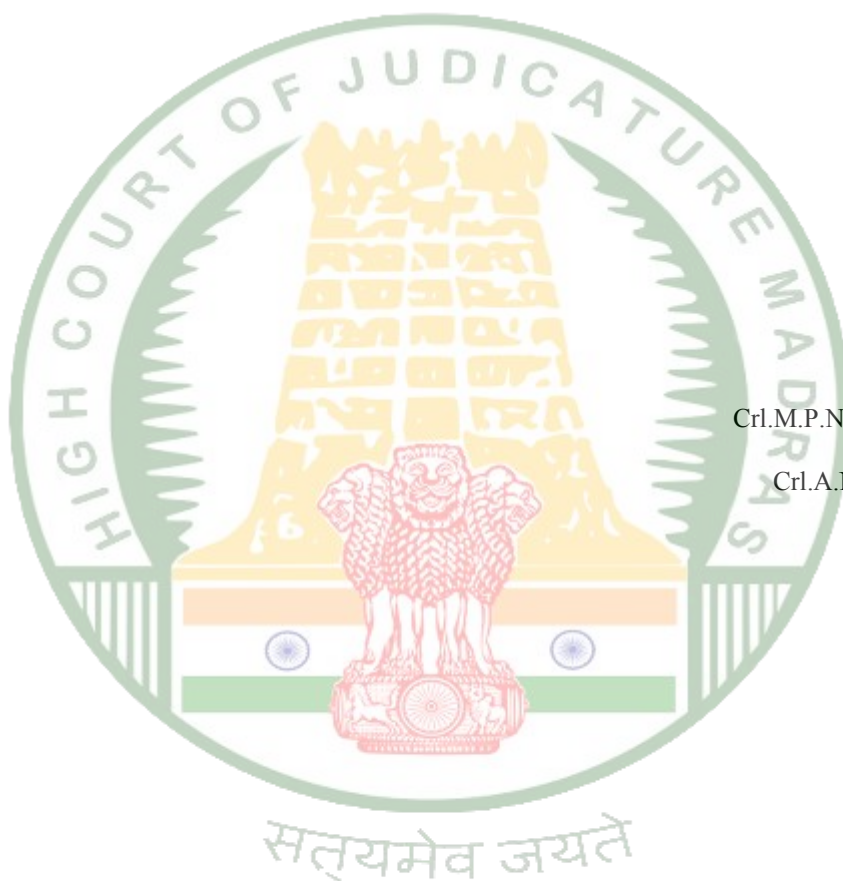
Note: issue order copy by 27.04.2021

Crl.M.P.No.2604 of 2021
in Crl.A.No.513 of 2020

P.N.PRAKASH, J.

and
V.SIVAGNANAM, J.

vsn



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26.04.2021