



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

Thursday, the Twenty Eighth day of October Two Thousand and
Twenty One
PRESENT

WEB COPY

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL MP(MD) No.8690 of 2021

IN

CRL A(MD)No.438 of 2021

DURGAI RAJ

... PETITIONER/APPELLANT/ACCUSED No.2

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
SEEVALAPERI POLICE STATION,
TIRUNELVELI DISTRICT.
CR.NO.154 OF 2018.

... RESPONDENT/RESPONDENT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the Execution of sentence by granting bail in SC.No.12 of 2020 dated 28.09.2021 on the file of the Learned Principal District Judge, Tirunelveli, Tirunelveli District.

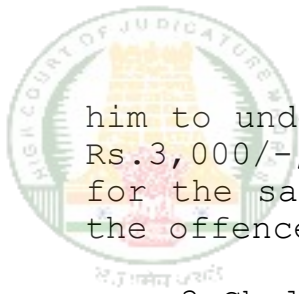
PRAYER IN CRL A(MD)No.438 of 2021:

To call for the records from the lower court, to duly set aside the judgment passed by the Learned Principal District Judge, Tirunelveli, Tirunelveli District in his S.C.No.12/2020 dated 28.09.2021.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.J.SENTHIL KUMAR, Advocate for the petitioner and of Mr.E.Antony Sahaya Prabahar, Additional Public Prosecutor on behalf of the Respondents the court made the following order:-

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed on the petitioner by judgment dated 28.09.2021 passed in S.C.No.12 of 2020, on the file of the learned Principal District and Sessions Judge, Tirunelveli and to enlarge the petitioner on bail pending disposal of the appeal.

2.The petitioner is arrayed as an accused No.2 in the above referred case. After full-fledged trial, the learned trial Judge came to the conclusion that the petitioner was found guilty for the offence punishable under section 379 IPC, convicted and sentenced



him to undergo one year rigorous imprisonment and to pay a fine of Rs.3,000/-, in default, to undergo 3 months rigorous imprisonment for the said offence, while acquitting the petitioner in respect of the offence under sections 353 and 307 IPC.

3. Challenging the above said conviction and sentence, the petitioner has filed Crl.A(MD) No.438 of 2021 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. Heard Mr.J.Senthil Kumar, learned counsel for the petitioner and Mr.E.Antony Sahaya Prabahar, learned Additional Public Prosecutor appearing for the respondent/State.

5. It is submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. The learned counsel for the petitioner further submitted that suspension of sentence has already been granted by the trial court for the period of 30 days from the date of the judgment.

6. It is submitted by the learned Additional Public Prosecutor that there are enough materials available on record against the petitioner, as per the evidence adduced by the prosecution, there is no infirmity in the prosecution case. Accordingly, he strongly opposed to grant suspension of sentence.

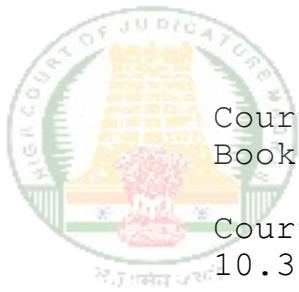
7. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

8. 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, till the disposal of the appeal.

9. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:-

(i) The petitioner 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 learned Principal District & Sessions Judge, Tirunelveli.

(ii) The sureties shall affix their photographs and 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) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m until further orders 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 of 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.

sd/-

28/10/2021

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/ /2021

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

Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

TO

- 1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
TIRUNELVELI, TIRUNELVELI DISTRICT.
- 2 THE INSPECTOR OF POLICE
SEEVALAPERI POLICE STATION,
TIRUNELVELI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to MR.SENTHIL KUMAR J Advocate SR.No.7570 (CRL MP (MD) No.8690 of 2021)

ORDER

IN

CRL MP (MD) No.8690 of 2021

IN

CRL A (MD) No.438 of 2021

Date :28/10/2021

SA/SKN/SAR.3/28.10.2021/3P/5C