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Crl.M.P.No.1581 of 2022 in Crl.A.No.120 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.M.P.No.1581 of 2022

in

Crl.A.No.120 of 2022

J.Nagoor Miran

.. Petitioner

Vs

State rep. by
Inspector of Police,
Sipcot Police Station
Vellore, Vellore District.
(Crime No.157 of 2014)

.. Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 389(1) r/w Section 439 of the Code of Criminal Procedure to suspend the sentence of rigorous imprisonment for 10 years and fine amount of Rupees Five Hundred in default two months on rigorous imprisonment for the offence under Section 450 of the IPC and ten years rigorous imprisonment and fine amount of Rupees Five Hundred in default two months of rigorous imprisonment for the offence punishable under Section 394 r/w 397 of IPC and the same has to be run concurrently on the petitioner / appellant in S.C.No.79 of 2015 on the file of the Sessions Judge (Magalir Neethimandram) (Fast Track Mahila Court) Vellore, Vellore District vide order dated 07.04.2021 pending disposal of the appeal.

For Petitioner : Mr.M.Sathish Kumar

For Respondent : S.Vinoth Raja
Government Advocate (Crl. Side)



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ORDER

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This Criminal Miscellaneous Petition is to suspend the sentence of rigorous imprisonment for 10 years and fine amount of Rs.500/-, in default, two months on rigorous imprisonment for the offence under Section 450 of the IPC and ten years rigorous imprisonment and fine amount of Rs.500/-, in default, two months of rigorous imprisonment for the offence punishable under Section 394 r/w 397 of IPC and the same has to be run concurrently on the petitioner / appellant in S.C.No.79 of 2015 on the file of the Sessions Judge (Magalir Neethimandram) (Fast Track Mahila Court) Vellore, Vellore District vide order dated 07.04.2021 pending disposal of the appeal.

2.Heard the learned Counsel for the petitioner and learned Government Advocate (Criminal Side) for the respondent.

3.The learned Counsel for the petitioner submits that the petitioner has been convicted on fragile evidence of recovery alone and the petitioner has got more than a *prima facie* case. He would submit that the petitioner is in prison from 25.04.2021, for a period of one year and three months, by now and, therefore prays for suspension of sentence.



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4. Per contra, learned Government Advocate (Crl. Side) would submit that the prosecution has proved the offence to the hilt in this case and the Trial Court has rightly convicted the petitioner.

5. I have considered the rival submissions made on either side and perused the material on record.

6. Considering the submissions made on behalf of the petitioner and considering the grounds raised in the appeal for the purpose of *prima facie* case and considering the fact that the petitioner is in jail from 30.04.2021, for a period of one year and three months and considering the fact that it may take a while, before this Court could take up the appeal, I am of the view that this is a fit case for grant of suspension of sentence, pending the above appeal. Therefore, I am inclined to suspend the sentence and grant bail to the petitioner on the following conditions:-

(a) the petitioner is ordered to be released on bail, on his executing a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial



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Magistrate, Ranipet, Ranipet District;

(b) the petitioner and the sureties shall affix their photographs and left thumb impressions in the surety bonds and the learned Magistrate may obtain a copy of their Aadhar Cards or Bank Pass books to ensure their identities;

(c) the petitioner shall appear before the Trial Court on the first working day of every English Calendar Month at 10.30 A.M until the disposal of the Criminal 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 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.

7. This Criminal Miscellaneous Petition is ordered accordingly.

15.07.2022

Index : yes/no

Speaking order/Non-speaking order

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1. The Inspector of Police,
Sipcot Police Station
Vellore, Vellore District.
(Crime No.157 of 2014)
2. The Public Prosecutor, High Court of Madras.
3. The Superintendent of Police, Central Prison, Vellore.
4. The Judicial Magistrate, Ranipet, Ranipet District .



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D.BHARATHA CHAKRAVARTHY. J.,

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