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Crl.M.P.No.3803 of 2022 in Crl.A.No.322 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.M.P.No.3803 of 2022 in Crl.A.No.322 of 2022

Devaraj

... Petitioner

Versus

State by the Inspector of Police,
Tiruppur North Police Station,
Tiruppur District.
(Crime No.879 of 2016)

... Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 389(1) of the Code of Criminal Procedure to suspend the sentence imposed against the petitioner by the learned I Additional District and Sessions Judge, Tiruppur in S.C.No.73 of 2017, dated 21.01.2022 and release the petitioner on bail till the disposal of Crl.A.No.322 of 2022.

For Petitioner : Mr.V.Parthiban

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

ORDER

This Criminal Miscellaneous Petition is to suspend the sentence imposed against the petitioner by the learned I Additional District and Sessions Judge,



Crl.M.P.No.3803 of 2022 in Crl.A.No.322 of 2022

Tiruppur in S.C.No.73 of 2017, dated 21.01.2022 and release the petitioner on

bail till the disposal of Crl.A.No.322 of 2022.

2. The learned Counsel for the petitioner would submit that the petitioner is convicted for the offence under Section 363 of the Indian Penal Code, which is a bailable offence. According to the learned Counsel for the petitioner, as per Section 389 (3) (ii) of Cr.P.C., normally, when the offence is a bailable one and if the appellant is on bail pending the trial, the Appellate Court is entitled to release the petitioner on bail.

3. The learned Government Advocate (Crl. Side) would submit that the appellant has been rightly convicted by the Trial Court, but, however, to the query of this Court, he would answer that there is no other bad antecedent as far as the petitioner is concerned.

4. In view of the Section 389 (3) (ii) of Cr.P.C., and the period of sentence imposed on the accused, I am of the view that this is a fit case for suspending the sentence against the petitioner pending the Criminal Appeal and the petitioner is enlarged on bail on the following terms:-



Crl.M.P.No.3803 of 2022 in Crl.A.No.322 of 2022

(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 Trial Court;

(b) the petitioner and the sureties shall affix their photographs and left thumb impressions in the surety bonds and the learned Judge 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.

5. This Criminal Miscellaneous Petition is ordered accordingly.

26.07.2022

Index : yes/no

Internet : yes/no

Speaking order/Non-speaking order

grs



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Crl.M.P.No.3803 of 2022 in Crl.A.No.322 of 2022

D.BHARATHA CHAKRAVARTHY. J.,

grs

To

1. The I Additional District and Sessions Judge,
Tiruppur.
2. The Public Prosecutor,
High Court of Madras.
3. The Inspector of Police,
Tiruppur North Police Station,
Tiruppur District.
4. The Superintendent,
Central Jail,
Coimbatore.

Crl.M.P.No.3803 of 2022
in Crl.A.No.322 of 2022

26.07.2022