



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2022

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.M.P.Nos.11568 & 11569 of 2021

in Crl.R.C.No.764 of 2021

1. Prabhu ... Petitioners
2. Arun

Vs.

State by the Inspector of Police, ... Respondent
Palladam Police Station,
Tiruppur District.
(Crime No.381 of 2013)

PRAYER: The Criminal Miscellaneous Petition is filed under Section 389(1) of the Code of Criminal Procedure, pleaded to suspend the sentence of imprisonment imposed in the judgment dated 18.06.2021 made in C.R.C.No.89 of 2018 on the file of the learned Principal Sessions Court, Tiruppur confirming the judgment dated 13.08.2018 made in S.C.No.148 of 2013 on the file of the learned Assistant Sessions Judge/Sub Judge, Palladam and enlarge the petitioners on bail.

For Petitioners: Mr.N.Manoharan

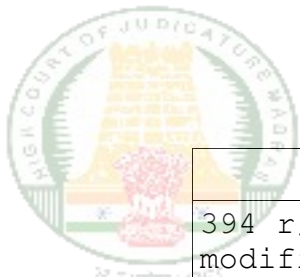
For Respondent : Mr.S.Sugendran
Addl. Public Prosecutor

ORDER

(This case has been heard through Video Conferencing)

This Criminal Miscellaneous Petition has been filed by the Petitioners, seeking suspension of sentence of imprisonment, imposed against the Petitioners in C.A.No.89 of 2018 dated 18.06.2021 by the learned Principal Sessions Judge, Tiruppur, confirming the order passed by the Subordinate Judge/Assistant Sessions Judge, Palladam in S.C.No.148 of 2013 dated 13.08.2018.

2. In and by the judgment of the Appellate court, the Petitioners were found guilty and convicted and sentenced as follows:-



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<i>Offence u/s</i>	<i>Conviction & Sentence</i>
394 r/w 109 IPC modified from 397 r/w 109 IPC	5 years R.I and to pay a fine of Rs.2000/-, in default to undergo three months S.I

against which, the present Criminal Revision has been filed.

3. The submissions of the learned counsel appearing for the Petitioners are as under:-

(a) Both Courts below had given an erroneous finding the petitioners guilty based on the confession given by A1 and A2 before the Respondent/Police. The confession given by A1 and A2 cannot be taken into consideration to convict the petitioners, who are co-accused in the case. Though, as per prosecution, the motive is stated to be that in order to help A3, A1 and A2 at the instigation of A3 and A4 had stolen the car, the prosecution has not proved the same by evidence. Without there being any legal materials against the petitioners, the Courts have erred in convicting the petitioners.

(b) The first petitioner/Prabhu, has surrendered and he is in custody. The petitioners have got a fair chance of succeeding in the Criminal Revision. There are arguable points available in the Criminal Revision and the appeal is not likely to be taken for final hearing in the near future and the Petitioners is abide to any stringent condition imposed on him by this Court and he would pray the sentence imposed against the Petitioners may be suspended and the Petitioners may be enlarged on bail.

4. Mr.S.Sugendran, learned Additional Public Prosecutor appearing for the respondent would submit that the prosecution examined PW1 to PW12 and marked Ex.P1 to Ex.P21 along with M.O.1 to M.O.4 and on the side of the defence, no evidence was let in. He would further submit that the Courts below had rightly convicted the petitioners/accused, guilty and convicted and sentenced them as stated above and thereby, would object for grant of suspension of sentence.

5. Heard the learned counsel and perused the materials on record.

6. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioners, this Court is of the opinion that the petitioners had made out the case for grant of bail. Accordingly, till the disposal of the Criminal Revision, suspension of sentence and bail are granted, on the following conditions:-



(a) Accordingly, the first petitioner is ordered to be released on bail on condition to execute his own bond for a sum of **Rs.15,000/- (Rupees Fifteen Thousand only)** before the Superintendent of the concerned prison/Jailor concerned, in which the petitioner has been confined and thereafter, on his release, the petitioner shall execute two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Palladam within 15 days from the date of commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically and on further conditions that:

(b) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) Both the Petitioners shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 am., until further orders.

7. Accordingly, the Criminal Miscellaneous Petition in CrI.M.P.No.11568 of 2021 is ordered and CrI.M.P.No.11569 of 2021 for exemption from surrender is closed in respect of 1st petitioner and CrI.M.P.No.11569 of 2021 for exemption of surrender is ordered in respect of 2nd petitioner.

-sd/-
04/02/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

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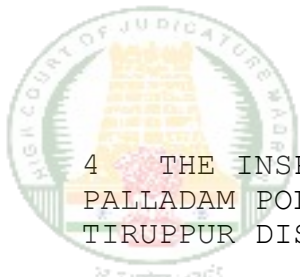
Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE PRINCIPAL SESSIONS JUDGE,
TIRUPPUR.

2 THE JUDICIAL MAGISTRATE,
PALLADAM, TIRUPPUR.

3 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR. [FOR INFORMATION]



4 THE INSPECTOR OF POLICE,
PALLADAM POLICE STATION,
TIRUPPUR DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

+2 C.C. to M/S.N.MANO HARAN Advocate on payment of necessary
charges SR.NO.1962, 1963

Order

in
CRL MP.11568 & 11569/2021

in
CRL RC.764/2021

Date :04/02/2022

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copies of the BAIL/Anti.BAIL Orders in this format

TA-04/02/2022