



WEB COPY



Crl.M.P.No.17083 of 2022  
in Crl.A.No.1167 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2022

CORAM

THE HONOURABLE MR. JUSTICE **P.N.PRAKASH**  
AND  
THE HONOURABLE MR. JUSTICE **G.CHANDRASEKHARAN**

Crl.M.P.No.17083 of 2022  
in Crl.A.No.1167 of 2022

Asai @ Kusan @ Asaithambi .. Petitioner/Accused No.2

Vs.

State represented by  
The Inspector of Police,  
Cuddalore O.T. Police Station,  
Cuddalore District.  
(Crime No.524/2012)

.. Respondent/Complainant

Criminal Miscellaneous Petition filed under Section 389 (1) & (2)  
Cr.P.C., to suspend the sentence imposed on the petitioner by judgment and  
order dated 30.09.2022 passed in S.C.No.122 of 2013 on the file of the I  
Additional District and Sessions Court, Cuddalore and to enlarge the  
petitioner on bail pending disposal of the above appeal.

For Petitioner : Mr.K.Gandhi Kumar

For Respondent : Mr.R.Muniyapparaj  
Additional Public Prosecutor



WEB COPY



Crl.M.P.No.17083 of 2022  
in Crl.A.No.1167 of 2022

## **ORDER**

(Made by *P.N.PRAKASH, J.*)

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by judgment and order dated 30.09.2022 passed in S.C.No.122 of 2013 on the file of the I Additional District and Sessions Court, Cuddalore and to enlarge the petitioner on bail pending disposal of the above appeal.

2. The petitioner faced a prosecution along with Nethaji Subash Chandra Bose (A1) and Manivannan (A3) in S.C.No.122 of 2013 before the I Additional District and Sessions Court, Cuddalore, in which, by judgment and order dated 30.09.2022, Manivannan (A3) was acquitted, but, convicted and sentenced Nethaji Subash Chandra Bose (A1) and Asai @ Kusan @ Asaithambi (A2), the petitioner herein, as under:

| <b><i>Accused</i></b>                                           | <b><i>Provision under which convicted</i></b> | <b><i>Sentence</i></b>                                                                        |
|-----------------------------------------------------------------|-----------------------------------------------|-----------------------------------------------------------------------------------------------|
| Nethaji Subash Chandra Bose (A1)                                | Section 294-B IPC                             | Three months simple imprisonment.                                                             |
|                                                                 | Section 302 IPC                               | Life imprisonment and fine of Rs.1,000/-, in default to undergo one year simple imprisonment. |
| Asai @ Kusan @ Asaithambi (A2)                                  | Section 323 IPC                               | One year simple imprisonment                                                                  |
| The aforesaid sentences of A1 were ordered to run concurrently. |                                               |                                                                                               |



Crl.M.P.No.17083 of 2022  
in Crl.A.No.1167 of 2022

filed Crl.A.No.1167 of 2022 and the petitioner has filed the instant miscellaneous petition seeking suspension of sentence and bail.

4. Heard Mr.K.Gandhi Kumar, learned counsel for the petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing for the respondent/State.

5. The learned counsel for the petitioner submitted that the trial Court has granted suspension of sentence and bail to the petitioner on 28.10.2022 in Crl.M.P.No.6018 of 2022 under Section 389(3) Cr.P.C.

6. The petitioner has raised substantial grounds in the appeal, which require detailed appraisal. That apart, the trial Court has suspended the sentence imposed on the petitioner under Section 389 (3) Cr.P.C. and granted bail to him. Therefore, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail.

7. Accordingly, this criminal miscellaneous petition stands allowed and the sentence of imprisonment is suspended and bail is granted to the petitioner on the following conditions:



WEB COPY



Crl.M.P.No.17083 of 2022  
in Crl.A.No.1167 of 2022

- (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 Additional District and Sessions Court, Cuddalore;
- (ii) 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 and mobile number 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 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.

**(P.N.P.,J.) (G.C.S., J.)**  
**23.11.2022**

nsd



Crl.M.P.No.17083 of 2022  
in Crl.A.No.1167 of 2022

To

- 1.The I Additional District and Sessions Judge,  
Cuddalore.
- 2.The Inspector of Police,  
Cuddalore O.T. Police Station,  
Cuddalore District.
- 3.The Public Prosecutor,  
Madras High Court,  
Chennai – 600 104.



WEB COPY



Crl.M.P.No.17083 of 2022  
in Crl.A.No.1167 of 2022

**P.N.PRAKASH, J.**  
**and**  
**G.CHANDRASEKHARAN, J.**  
nsd

Crl.M.P.No.17083 of 2022  
in Crl.A.No.1167 of 2022

23.11.2022