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Crl.M.P.No.19550 of 2022 in Crl.R.C.No.1636 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2022

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.19550 of 2022

in

Crl.R.C.No.1636 of 2022

Raja @ Mathew

.. Petitioner

/versus/

State rep.by its
The Inspector of Police,
Kunnathur Police Station,
Tiruppur District.
(Crime No.190 of 2011)

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under Sections 397(1) of Cr.P.C., to suspend the sentence pursuant to the judgment dated 02.09.2022 in C.A.No.68 of 2021 on the file of the learned II Additional District and Sessions Judge, Tiruppur, confirming the order of conviction and sentence dated 08.09.2021 in C.C.No.173 of 2019 on the file of the District Munsif Cum Judicial Magistrate, Uthukuli and enlarge the petitioner on bail pending disposal of the above criminal revision petition before this Hon'ble Court.

For Petitioner

... Mr.W.Camyles Gandhi

For Respondent

... Mr.V.Meganathan, Govt.Advocate
(Crl.Side)



ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the judgment of conviction and sentence passed by the II Additional District and Sessions Judge, Tiruppur in C.A.No.68 of 2021 dated 02.09.2022 by confirming the judgment of conviction and sentence passed by the District Munsif cum Judicial Magistrate, Uthukuli in C.C.No.173 of 2019 dated 08.09.2021 pending criminal revision case.

2. The petitioner, who was the first accused in C.C.No.173 of 2019 was convicted and sentenced by the District Munsif cum Judicial Magistrate, Uthukuli, which reads as follows:

<i>Petitioner Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
1 st accused	Section 392 of IPC	To undergo 3 years Rigorous Imprisonment and to pay a fine of Rs.1,000/- in default to undergo 3 months Simple Imprisonment

The period of imprisonment already undergone was directed to be set off.

3. Aggrieved against the judgment of conviction and sentence imposed on the petitioner, he preferred criminal appeal in Crl.A.No.68 of 2021 on the file of the II Additional District and Sessions Judge, Tiruppur and the same was dismissed by confirming the judgment of the trial Court. Against which, he preferred the present criminal revision case along with the instant miscellaneous petition, seeking suspension of sentence and bail.



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4. Heard the learned counsel appearing for the petitioner and the learned Govt. Advocate (crl.side) appearing for the State.

5. The learned counsel for the petitioner submitted that there is no prosecution witness to identify the petitioner accused relating to the connected case. Further, since the victim Chinnammal died, she was not examined. PW-1, who the son of the victim was not present at the time of occurrence. After two years, PW-1 went to police and the police has introduced the accused. The remaining witnesses were also not deposed before the Court anything about the connected case. Anyhow, the trial Court has convicted the accused/petitioner. Further, he submitted that the judgment of the trial Court is contrary to law, weight of evidence and probabilities of the case; there are arguable points in this appeal and the petitioner has every chance of succeeding the appeal. He further submitted that the petitioner has been in the judicial custody from 02.09.2022. Thus, he prayed for suspension of sentence till the disposal of this Criminal Revision Petition.

6. The petitioner has raised substantial grounds in the appeal which require detailed appraisal. Moreover, the petitioner has been confined in the judicial custody from 02.09.2022. Further, the appeal is not likely to be



taken up in the near future. In such view of the matter, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail.

7. 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.10,000/- (Rupees ten thousand only) along with two sureties, each for a likesum to the satisfaction of the District Munsif cum Judicial Magistrate, Uthukuli;
- (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 Aadhaar card or Bank pass Book to ensure their identity; and
- (iii) The petitioner shall appear before the trial Court as and when required.

22.12.2022

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Note : Issue Today

To

- 1.The II Additional District and Sessions Judge, Tiruppur.
- 2.The District Munsif cum Judicial Magistrate, Uthukuli.
- 3.The Inspector of Police, Kunnathur Police Station, Tiruppur.
- 4.The Superintendent, Central Prison, Coimbatore.
- 5.The Public Prosecutor, High Court, Madras.

V.SIVAGNANAM, J.

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