



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Ninth day of February Two Thousand and Twenty Two
PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL MP(MD) No.2043 of 2022

IN

CRL A(MD) No.35 of 2022

VIJAYAKUMAR

... APPELLANT/ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
THUVARANKURICHI POLICE STATION,
TRICHY DISTRICT.
(CRIME NO.105 OF 2015)

... RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence of imprisonment of 5 years imposed upon the accused (Vijayakumar) by the judgment dated 03.12.2021 in S.C.No.185 of 2015 on the file of the Learned Second Additional District and Sessions Judge, Trichy, pending disposal of this Criminal Appeal.

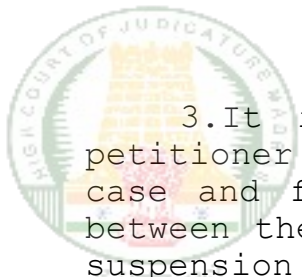
ORDER IN CRL A(MD) No.35 of 2022:

To call for records and allow the appeal and acquit the appellant by setting aside the judgment dated 03.12.2021 in S.C.No.185 of 2015 on the file of the learned Second Additional District and Sessions Judge, Trichy.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.GANAPATHI SUBRAMANIAN.P., Advocate for the petitioner and of MR.K.SANJAI GANDHI, GOVERNMENT ADVOCATE (CRL.SIDE) on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed in S.C.No.185 of 2015, dated 03.12.2021 by the learned II Additional District and Sessions Judge, Trichy and enlarge the petitioner/accused on bail pending disposal of the Criminal Appeal.

2.The learned counsel appearing for the petitioner submitted that the petitioner has been convicted by the trial Judge, for the alleged offence under Section 304(ii) IPC, and sentenced him to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.1,05,000/-, in default to undergo rigorous imprisonment for a period of 1 ½ years in S.C.No.185 of 2015 on the file of the learned Second Additional District and Sessions Judge, Trichy.



3.It is submitted by the learned counsel appearing for the petitioner that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses and he prayed for suspension of sentence.

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4.It is submitted by the learned Government Advocate (crl.side) appearing for respondent that there are enough materials available on record against the petitioner as per the evidence adduced by the prosecution and there is no infirmity in the prosecution case and he strongly opposed to grant suspension of sentence.

5.This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

6.The learned counsel appearing for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

7.Accordingly, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal on the following conditions:-

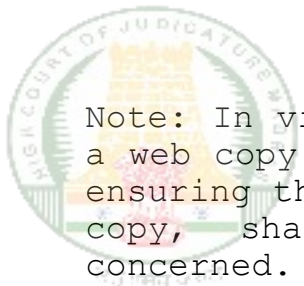
(i)the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Second Additional District and Sessions Judge, Trichy;

(ii)and on further condition that the petitioner shall appear before the respondent police monthly twice i.e., first and third Monday at 10.30 a.m., until further orders.

sd/-
09/02/2022

/ TRUE COPY /

11/02/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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- TO
- 1 THE SECOND ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TRICHY.
 - 2 THE INSPECTOR OF POLICE
THUVARNKURICHI POLICE STATION,
TRICHY DISTRICT.
 - 3 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP(MD) No.2043 of 2022
IN
CRL A(MD) No.35 of 2022
Date :09/02/2022

RS/VR/SAR.3(11.02.2022) 3P-5C