



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

Wednesday, the Thirteenth day of April Two Thousand and Twenty Two

PRESENT

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

CRL MP(MD) No.4755 of 2022
IN
CRL A(MD) No.280 of 2022

E.XAVIER

... PETITIONER/APPELLANT/SOLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
THENI POLICE STATION,
THENI DISTRICT.
CRIME NO.490/2016.

... RESPONDENT/RESPONDENT/COMPLAINANT

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 imposed against the petitioner in SC No.80/2017 dated 16/03/2022 on the file of the Principal Sessions Court, Theni District and enlarge the petitioner on bail pending disposal of Criminal Appeal.

PRAYER IN CRL A(MD) No.280 of 2022:

To call for the records relating to the judgement in S.C.No.80/2017 dated 16.03.2022 on the file of Principal Sessions Court, Theni and set aside the same and allow this appeal.

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.UDHAYAKUMAR K K, Advocate for the petitioner and of M/S.M.AASHA, Government Advocate (Crl.Side) on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

This Criminal Miscellaneous petition has been filed to suspend the sentence passed in S.C.No.80 of 2017, dated 16.03.2022 on the file of the Principal Session Court, Theni under Section 427 of IPC, pending disposal of the Criminal Appeal.

2.The learned counsel appearing for the petitioner submitted that the petitioner has been convicted by the Trial Court for the alleged offences punishable under Section 427 of IPC and sentenced



to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.10,000/-, in default, to undergo simple imprisonment for a period of six months.

3. Being dissatisfied with the said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. The learned counsel appearing for the petitioner submitted that there are several infirmities in the prosecution case and further, there are contradictions in material particulars between the evidence of the prosecution witnesses.

5. Mrs. M. Aasha, learned Government Advocate (Crl. Side) appearing for the respondent submitted that there are enough materials available on record against the petitioner and hence, she strongly opposed to grant suspension of sentence.

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

7. The learned counsel appearing for the petitioner pointed out 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.

8. In fine, this petition is allowed and the sentence imposed in S.C.No.80 of 2017 is alone suspended till the disposal of Criminal Appeal No.280 of 2022 and the petitioner shall be released on bail on executing a bond to the tune of Rs.10,000/- with two blood related sureties each for a likesum to the satisfaction of the learned Judicial Magistrate, Theni. The petitioner is directed to report before the respondent police daily at 10.30 a.m., for a period of four weeks and thereafter once in a month till the disposal of the Criminal Appeal.

sd/-
13/04/2022

/ TRUE COPY /

13/04/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1 THE PRINCIPAL SESSIONS JUDGE,
THENI.

2 THE JUDICIAL MAGISTRATE,
THENI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.

4 THE INSPECTOR OF POLICE
THENI POLICE STATION,
THENI DISTRICT.

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.K.K.UDHAYA KUMAR, Advocate (SR-3399[I] dated
13/04/2022)

ORDER

IN

CRL MP(MD) No.4755 of 2022

IN

CRL A(MD) No.280 of 2022

Date :13/04/2022

RS/PN/SAR.1 (13.04.2022) 3P-7C