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Crl.M.P.No.804 of 2023 in Crl.A.No.63 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.804 of 2023

in

Crl.A.No.63 of 2023

P. Yuvaraj

... Petitioner

/vs/

The State, represented by
Inspector of Police,
J-6, Thiruvanmiyur Police Station,
Chennai .

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(i) of Cr.P.C., to suspend the sentence imposed in S.C.No.349 of 2017, by order dated 30.11.2022, on the file of the learned VI Additional Sessions Judge, Chennai and enlarge the petitioner on bail till the disposal of the above appeal.

For Petitioner ... Mr. G. Ashokkumar

For Respondent ... Mr.C.E.Pratap, GA (crl.side)

ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed in S.C.No.349 of 2017, by judgment of conviction and sentence, dated 30.11.2022 by the learned VI Additional



Sessions Judge, Chennai and enlarge the petitioner on bail till the disposal of the above appeal.

2. The trial court, by its judgement dated 30.11.2022, in S.C.No.349 of 2017 convicted and sentenced A1 and A2 as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
A1 and A2	U/s.452 IPC	Each to undergo 5 years RI and to pay a fine of Rs.1,000/-, each, in default in payment of fine, each to undergo 3 months SI
	U/s.307 IPC	Each to undergo 5 years RI and to pay a fine of Rs.1,000/- each, in default in payment of fine, each to undergo 3 months SI.
The sentence of imprisonments imposed on A1 and A2 was ordered to run concurrently		

3. The petitioner, who is A2 in S.C. No.349 of 2017, aggrieved over the judgment of conviction and sentence imposed on him, has filed the present criminal appeal, along with the instant miscellaneous petition, seeking suspension of sentence and bail.

4. The learned counsel for the petitioner submitted that the petitioner/A2 was convicted and sentence for the offence under sections 452



and 307 IPC. The trial court, without considering the opinion of the medical officers PW9 and PW10, who gave medical treatment to the victim, that the injuries sustained by the victim was simple in nature, erroneously convicted and sentenced the petitioner as stated above, which is contrary to law, weight of evidence and the probabilities of the case. Therefore, the offence of 307 IPC will not be made over against this petitioner. He further submitted that there are arguable points in this appeal and the petitioner has every chance to succeed in this Criminal appeal and the petitioner has been in incarceration since 30.11.2022. Thus, he prayed for suspension of sentence till the disposal of this Criminal appeal.

5. Heard the learned counsel for the petitioner and learned Govt. Advocate (crl.side) and perused the entire materials available on record.

6. The petitioner has raised substantial grounds in the appeal which require detailed appraisal. 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 is ordered to be released on bail on executing a bond for a sum of Rs.10,000/-(Rupees ten thousand only) along with two sureties, each for a like sum, to the satisfaction of the Trial Court;
- (ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bonds 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.

24.01.2023

msr

To

1. The VI Addl. Sessions Judge, Chennai
2. The Inspector of Police,
J-6, Thiruvanmiyur Police Station,
Chennai
3. The Public Prosecutor, High Court, Madras.
4. The Superintendent, Central Prison,
Puzhal, Chennai.



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V.SIVAGNANAM, J.

msr

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