



Crl.M.P.No.3587 of 2023 in
Crl.R.C.No.465 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2023

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THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.MP No.3587 of 2023 in
Crl.RC No.465 of 2023

Siva Kumar @ Siva

... Petitioner

Vs.

State rep. by the Inspector of Police,
Denaducombai Police Station,
Denaducombai Post,
The Nilgiris.
(Crime No.50 of 2006)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) & 439 of Cr.P.C. to suspend the sentence imposed on the petitioner by the learned Sessions Judge of Magalir Neethimandram(FTMC), Udhagamandalam of Nilgiris in CA No.53 of 2019 dated 06.01.2023 thereby confirming the judgment dated 22.08.2019 passed in CC No.128 of 2006 by the learned Judicial Magistrate, Udhagamandalam, The Nilgiris and enlarge the petitioner on bail, pending disposal of the above Criminal Revision Case.

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For Petitioner : Mr.A.Bobbie
For Respondent : Mr.R.Vinothraja
Govt. Advocate (Crl.Side)

ORDER

This petition has been filed to suspend the sentence imposed on the petitioner by the learned Sessions Judge of Magalir Neethimandram(FTMC), Udhagamandalam of Nilgiris in CA No.53 of 2019 dated 06.01.2023 thereby confirming the judgment dated 22.08.2019 passed in CC No.128 of 2006 by the learned Judicial Magistrate, Udhagamandalam, The Nilgiris and enlarge the petitioner on bail, pending disposal of the above Criminal Revision Case.

2. The learned Trial Judge, vide order dated 22.08.2019 passed in C.C.No.128 of 2006, convicted and sentenced the petitioner, as extracted hereunder.



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<i>provision under which convicted</i>	<i>Sentence</i>
Sec.279 IPC	To pay a fine of Rs.300/- in default, to undergo 4 months simple imprisonment,
Sec.337 IPC (30 counts)	To pay a fine of Rs.300/- for each count in default, to undergo 4 months simple imprisonment,
Sec.338 IPC	To pay a fine of Rs.500/- in default, to undergo 4 months simple imprisonment
Sec.304(A) IPC (4 counts)	To undergo 1 year rigorous imprisonment for each count
The above sentence of imprisonments are ordered to run concurrently.	

3.Challenging the judgment of conviction and sentence, the petitioner preferred an Appeal in Crl.A.No.53 of 2019 and the same was dismissed by the learned Sessions Judge of Magalir Neethimandram(FTMC), Udhagamandalam of Nilgiris vide judgment dated 06.01.2023.

4.Aggrieved by the judgment of conviction passed by the Trial Court as well as lower Appellate Court, the petitioner filed the present Criminal Revision Case along with the instant petition, seeking to suspend the sentence of imprisonment.



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5.The learned counsel for the petitioner submitted that the judgement of the trial Court as well as the lower Appellate Court is contrary to law, weight of evidence and probabilities of the case. He would further submit that there are arguable points in the above Criminal Revision Case and the petitioner has every chance to succeed in this Criminal Revision Case. He further submitted that already, the petitioner has paid the fine amount and hence, prayed for suspension of sentence.

6.Heard the learned counsel for the petitioner and the learned Government Advocate(Crl. side) appearing for the respondent and perused the impugned judgment and the materials on record.

7.Taking into consideration of the above submission of the learned counsel appearing on both sides, this Court finds that, the petitioner has substantial grounds in this Criminal Revision Case, which require detailed appraisal. Therefore, this Court is of the view that the petitioner is entitled



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8. Accordingly, it is ordered as follows.

(i) The substantive sentence of imprisonment alone is suspended and the petitioner shall surrender before the Trial Court within two weeks from the date of receipt of a copy of this order and on such surrender, the petitioner is ordered to be released on bail on their executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each, with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Udthagamandalam, The Nilgiris.

(ii) The petitioner and 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 to ensure their identity.

(iii) The petitioner shall appear before the above said Court, as and when required.

14.03.2023

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To

1. The Judicial Magistrate, Udhagamandalam, The Nilgiris
2. The Sessions Judge of Magalir Neethimandram(FTMC),
Udhagamandalam of Nilgiris
3. The Public Prosecutor, High Court of Madras, Chennai.



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V.SIVAGNANAM, J.,

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