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*Crl.M.P.No.3288 of 2023 in
Crl.RC No.437 of 2023*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 13.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

**Crl.M.P.No.3288 of 2023 in
Crl.RC No.437 of 2023**

Gunasekaran

... Petitioner

Vs.

State by its Inspector of Police,
M3-Kovilpalayam Police Station,
Kovilpalayam, Coimbatore District.
[Crime No.223 of 2017]

... Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 389 of Cr.P.C. to suspend the sentence of imprisonment imposed on the petitioner in the judgment dated 23.12.2022 made in C.A.No.40 of 2022 on the file of the I Additional District and Sessions Judge, Coimbatore, Coimbatore District confirming the judgment dated 31.05.2022 made in C.C.No.630 of 2017 on the file of the Judicial Magistrate No.II, Coimbatore, Coimbatore District and enlarge the petitioner on bail pending disposal of the Criminal Revision Case.

For Petitioner : Mr.K.G.Senthilkumar

For Respondent : Mr.R.Vinothraja,
Government Advocate [Criminal Side]



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ORDER

This petition has been filed to suspend the sentence imposed on the petitioner by the Trial Court in C.C.No.630 of 2017, vide judgement dated 31.05.2022, which was confirmed by the lower appellate Court in C.A.No.40 of 2022, vide judgement dated 23.12.2022, pending disposal of the Criminal Revision Petition.

2. The learned Judicial Magistrate No.II, Coimbatore, vide judgment dated 31.05.2022 passed in C.C.No.630 of 2017, convicted the petitioner for the offence punishable under Section 379 of IPC and sentenced him to undergo 1 year Rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo further period of one month simple imprisonment for the offence under section 379 IPC. Challenging the above judgment, the petitioner preferred an appeal in Crl.A.No.40 of 2022, which was confirmed by the learned I Additional District and Sessions Judge, Coimbatore, vide judgment dated 23.12.2022.



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3. Challenging the conviction and sentence slapped by the Trial Court and the lower Appellate Court, the petitioner is before this Court.

4. The learned counsel for the petitioner submitted that the judgment of the Courts below are contrary to law, weight of evidence and probabilities of the case. The learned counsel for the petitioner further submitted that there are several contradictions in the evidence of prosecution witnesses and the documents marked on behalf the prosecution and there are arguable points in this Criminal Revision Petition and hence, prayed for suspension of sentence.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate [Criminal Side] for the respondent and perused the impugned judgments and the materials on record.

6. Taking into consideration of the above submission of the learned counsel appearing for the petitioner, this Court finds that the petitioner has substantial grounds in this Criminal Revision Petition, which require detailed appraisal. Therefore, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence.



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7. Accordingly, it is ordered as follows :

(i) The substantive sentence of imprisonment alone is suspended and the petitioner shall surrender before the concerned 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 his ***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 learned Judicial Magistrate No.II, Coimbatore, Coimbatore District.***

(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the bond and the concerned Court may obtain a copy of their Aadhar card or Bank pass Book to ensure his identity.

(iii) *The petitioner shall appear before the Trial Court as and when required.*

13.03.2023

Index: Yes/No
Internet: Yes/No
vrc

To

1. The I Additional District and Sessions Judge, Coimbatore,



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2.The Judicial Magistrate No.II, Coimbatore, Coimbatore District.



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V.SIVAGNANAM, J.

VTC

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