



Crl.M.P.No.3224 of 2023 in
Crl.A.No.230 of 2023

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DATED: 07.03.2023

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THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.MP No.3224 of 2023 in
Crl.A No.230 of 2023

Rubhan Anthony Rathnaraj

... Petitioner

Vs.

State rep. by the Inspector of Police,
J-5, Sastri Nagar Police Station,
Besant Nagar, Chennai.
(Crime No.187/2018)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence imposed on the petitioner in S.C.No.52 of 2021, vide judgment dated 30.11.2022 passed by the learned Sessions Judge, Magalir Neethimandram, Allikulam, Chennai, pending disposal of the Criminal Appeal.

For Petitioner : Mr.A.Karthikeyan Anbazhagan

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor



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ORDER

This petition has been filed to suspend the sentence imposed on the petitioner in S.C.No.52 of 2021, vide judgment dated 30.11.2022 passed by the learned Sessions Judge, Magalir Neethimandram, Allikulam, Chennai, pending disposal of the Criminal Appeal.

2. The learned Trial Judge, vide order dated 30.11.2022 passed in S.C.No.52 of 2021, acquitted the petitioner for the charge under Section 376(2)(n)IPC and convicted and sentenced the petitioner, as extracted hereunder.

<i>provision under which convicted</i>	<i>Sentence</i>
Sec.306 IPC	7 years rigorous imprisonment and to pay a fine of Rs.50000/-, in default, to undergo 3 months simple imprisonment.
Sec.417 IPC	1 year rigorous imprisonment and to pay a fine of Rs.5000/-, in default, to undergo 1 month simple imprisonment.



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3. Aggrieved by the judgment of conviction passed by the Trial Court, the petitioner filed the present Criminal Appeal along with the instant petition, seeking to suspend the sentence of imprisonment.

4. The learned counsel for the petitioner submitted that there are arguable points in the Criminal Appeal in favour of the accused/petitioner. He further submitted that, the petitioner is in judicial custody for the past 3 months and hence, prayed for suspension of sentence.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and perused the impugned judgment and the materials on record.

6. 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 Appeal, which require detailed

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appraisal. Therefore, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence.

7. Accordingly, it is ordered as follows.

(i) The substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) with two sureties each for a like sum to the satisfaction of the learned IX Metropolitan Magistrate, Saidapet, Chennai.

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

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

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To

1. The IX Metropolitan Magistrate, Saidapet, Chennai.
2. The Superintendent, Central Prison Phase I, Puzhal, Chennai
3. the Inspector of Police,
J-5, Sastri Nagar Police Station,
Besant Nagar, Chennai.
(Crime No.187/2018)
4. The Public Prosecutor, High Court of Madras, Chennai.



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V.SIVAGNANAM, J.,

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