



Crl.M.P. No.5361 of 2023 in Crl.R.C. No.697 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2023

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THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

Crl.M.P. No.5361 of 2023 in
Crl.R.C. No.697 of 2023

Thangam @ Krishnan

...Petitioner

Vs.

State by Inspector of Police
Deevattipatty Police Station
Salem District
Cr. No.161 of 2015

... Respondent

Prayer : Criminal Miscellaneous Petition filed under Section 397 (1) Cr.P.C. praying to suspend the sentence imposed on the petitioner by the learned Assistant Sessions Judge, Omalur, Salem District, vide judgment dated 22.04.2022 in S.C. No.34 of 2017, partly confirmed by the learned I Additional District and Sessions Judge, Salem, in C.A. No.48 of 2022 by judgment dated 09.02.2023 and to enlarge the petitioner on bail pending disposal of the above Criminal Revision No.697 of 2023.

For Petitioner : Mr.V.M.R.Rajentran

For Respondent : Mr.R.Vinothraja

Government Advocate (Crl.side)



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ORDER

This criminal miscellaneous petition is filed seeking to suspend the sentence imposed by the learned I Additional District and Sessions Judge, Salem, in C.A. No.48 of 2022 on 09.02.2023, by confirming the conviction and modifying the sentence passed by the learned Assistant Sessions Judge, Omalur, Salem District, vide his judgment dated 22.04.2022 in S.C. No.34 of 2017, and to enlarge the petitioner on bail.

2. The present petitioner was the 2nd accused in S.C.No.34 of 2017 before the Assistant Sessions Judge, Omalur, Salem District. There were two accused in S.C.No.34 of 2017 and they were convicted and sentenced on 22.04.2022 detailed hereunder:

S.No.	Provision under convicted	Sentence
1	Section 452 IPC	Rigorous imprisonment for three years and to pay a fine of Rs.2,000/-, in default, to undergo simple imprisonment for 6 months.



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2.	Section 392 IPC	Rigorous imprisonment for seven years and to pay a fine of Rs.3,000/-, in default, to undergo simple imprisonment for one year.
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The sentences imposed were ordered to run concurrently. The period of sentence already undergone by the accused was ordered to be set off under Section 428 Cr.P.C.

3. Aggrieved over the conviction and sentence passed by the trial court, the accused filed an appeal in Crl.A. No.48 of 2022 before the learned I Additional District and Sessions Judge, Salem, which was partly allowed. The learned I Additional District and Sessions Judge, Salem, while confirming the conviction imposed by the trial court against the accused for the offences punishable under Sections 452 and 392 IPC, modified the sentence imposed under Section 392 IPC as five years Rigorous imprisonment instead of 7 years, vide his judgment dated 09.02.2023.



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4. Challenging the above, the petitioner/ 2nd accused has filed Crl.R.C.No.697 of 2023 along with the instant miscellaneous petition seeking suspension of sentence and bail.

5. Mr.V.M.R.Rajentran, learned counsel for the petitioner contended that the present petitioner is in jail for more than two years and that he has fair chance to prove his innocence and succeed in the Criminal Revision and therefore prayed for suspending the sentence till the conclusion of this Revision.

6.Mr.R. Vinothraja, learned Government Advocate (criminal side) did not raise any serious objection to grant the relief of suspension of sentence.

7. Considering the facts and circumstances of the case, this Court is of the view that the petitioner is entitled to the relief of suspension of



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sentence and bail with the following conditions.

- i. The petitioner shall execute a bond for a sum of Rs.25,000/, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Judicial Magistrate, Omalur, Salem District.
- ii. The sureties shall affix their photographs and Left Thumb Impression on the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity; and
- iii. The petitioner shall appear before the respondent police everyday at 10.30 a.m. for a period of four weeks and thereafter, the petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the Criminal Revision Petition and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an



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application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

08.09.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
bga

To

1. The Judicial Magistrate, Omalur, Salem District.
2. The Superintendent of Prison,
Central Prison, Coimbatore



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R. HEMALATHA, J.
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(2/2)