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Crl.M.P.No.5869 of 2023 in Crl.A.No.473 of 20__

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.5869 of 2023

in

Crl.A.No.473 of 2023

Tamilselvan

... Petitioner

/vs/

The Inspector of Police,
Mayiladuthurai Railway Police Station,
Mayiladuthurai District.
[Crime No.05 of 2019]

... Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(i) of Cr.P.C., to suspend the sentence, dated 31.03.2023 awarded against the petitioner in Sessions Case No.81 of 2019 on the file of the District and Sessions Judge, Mayiladuthurai and enlarge the petitioner on bail, pending disposal of the above appeal.

For Petitioner

... Mr.R.Shivakumar
for M/s.K.M.Vijayan Associates

For Respondent

... Mr.A.Gokulakrishnn
Additional Public Prosecutor

**ORDER**

WEB COPY This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence, dated 31.03.2023 imposed on the petitioner in Sessions Case No.81 of 2019 on the file of the District and Sessions Judge, Mayiladuthurai and enlarge the petitioner on bail, pending disposal of the above appeal.

2. The petitioner, who is the sole accused in Sessions Case No.81 of 2019 is convicted and sentenced by the trial court, by its judgment dated 31.03.2023 as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
A2	U/s.294[b] IPC	To pay a fine of Rs.1,000/-, in default in payment of fine, to undergo 1 month RI
	U/s.450 IPC	To undergo 7 years RI and a fine of Rs.3,000/-
	U/s.332 IPC	To undergo 2 years RI
	U/s.353 IPC	To undergo 1 year RI
	U/s.506[1] IPC	To undergo 1 year RI
	U/s.3[1] of TNPPDL Act	To undergo 3 years RI and a fine of Rs.1,000/-, in default in payment of fine, to undergo one month RI



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The sentences imposed on both the accused are to run concurrently and the detention period already undergone by the accused is Ordered to be set off.

The fine amount has been paid by the accused.

3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in Sessions Case No.81 of 2019, the petitioner 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 would submit that the Doctor P.W.7, who had treated the defacto complainant had deposed that he did not find any injuries on the body of the victim and a complain of pain was recorded. Hence, the learned counsel for the petitioner would further submit 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 31.03.2023. Thus, he prayed for suspension of sentence till the disposal of this Criminal appeal.



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5. Heard the learned counsel for the petitioner and learned Additional Public Prosecutor and perused the complaint, FIR and evidence of the witnesses and other material evidence available on record.

6. On a perusal of the P.W.7 Doctor evidence and evidence of other witnesses, it is noticed that the petitioner has raised substantial grounds in the appeal which require detailed appraisal, specifically the Doctor had stated that he did not find any injuries on the body of the victim and only complain of pain is recorded and further fact that the appeal is not likely to be taken up in the near future, 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.

26.04.2023

vrc

To

1. The District and Sessions Judge, Mayiladuthurai
2. The Inspector of Police, Mayiladuthurai Railway Police Station, Mayiladuthurai District.
3. The Public Prosecutor, High Court, Madras.
4. The Superintendent, Central Prison, Trichy.



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V.SIVAGNANAM, J.

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