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Crl.M.P.No.5761 of 2023 in Crl.A.No.461 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.5761 of 2023

in

Crl.A.No.461 of 2023

Khaja Mohideen

... Petitioner

/vs/

The State represented by
the Inspector of Police,
Railway Police Station,
Egmore, Chennai 600 008.

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(1) of Cr.P.C., to suspend the sentence passed by the III Addl. Sessions Judge at Chennai in S.C.No.155 of 2018 by judgment dated 13.04.2023 and enlarge the petitioner on bail pending disposal of the said criminal appeal.

For Petitioner

... Mr.T. Shanmuga Boopathy

For Respondent

... Mr.A. Gokulakrishnan
Addl. Public Prosecutor

ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed against the petitioner in S.C.No.155/2018 on



the file of the III Additional Sessions Judge, Chennai, dated 13.04.2023 and enlarge the petitioner on bail pending disposal of the said criminal appeal.

2. The trial court, by its judgment dated 13.04.2023 made in S.C.No.155/2018 ordered as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s 392 of IPC	To undergo RI for 3 years and to pay a fine of Rs.2000/-, in default, to undergo SI for six months.

He is acquitted from the charge under section 397 IPC.

3. Aggrieved over the judgment of conviction and sentence imposed, the petitioner has filed criminal appeal along with the instant miscellaneous petition, seeking suspension of sentence and bail.

4. The learned counsel for the petitioner submitted that the judgment of the trial court is contrary to law, weight of evidence and probabilities of the case. He further submitted that there are arguable points in this appeal and the petitioner has every chance to succeed in this Criminal Appeal and the sentence imposed upon him has been suspended till 12.05.2023 by the lower court. Thus, he prayed for suspension of sentence till the disposal of



this Criminal Appeal.

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5. The petitioner has raised substantial grounds in the appeal which require detailed appraisal and the appeal is not likely to be taken up in the near future. Further, the court below has suspended the sentence of the petitioner till 12.05.2023. Considering the above aspects, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail. Hence, this Court is inclined to grant suspension of sentence imposed on the petitioner till the disposal of the criminal appeal.

6. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner pending disposal of the appeal on the following conditions:

- (i) The petitioner shall surrender before the XIV Metropolitan Magistrate, Egmore, 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 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 abovesaid 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;



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(iii) The petitioner shall report before the trial court as and when required.

25.04.2023

msr

To

1. The III Addl. Sessions Judge, Chennai
2. The XIV Metropolitan Magistrate, Egmore.
3. The Public Prosecutor, High Court, Madras.
4. The Inspector of Police,
Railway Police Station, Egmore,
Chennai 600 008.



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V.SIVAGNANAM, J.

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25.04.2023