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Crl.M.P.No.5914 of 2023 in Crl.A.No.479 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.5914 of 2023**

**in**

**Crl.A.No.479 of 2023**

K.Kothandapani

... Petitioner

/vs/

The State of Tamilnadu  
Rep. by its the Inspector of Police,  
Roshanai Police Station, Tindivanam,  
Villupuram District.

... 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.125 of 2020 on the file of the II Additional District and Sessions Judge, Tindivanam pending disposal of the above appeal.

For Petitioner

... Mr.R.Veeramani

For Respondent

... Mr.A.Gokulakrishnn  
Additional Public Prosecutor



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## ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed on the petitioner in Sessions Case No.125 of 2020 on the file of the II Additional District and Sessions Judge, Tindivanam dated 31.03.2023, pending disposal of the above appeal.

2. The petitioner, who is the sole accused in Sessions Case No.125 of 2020 is convicted and sentenced by the trial court, by its judgment dated 31.03.2023 as follows;

| <b><i>Petitioner's Rank</i></b> | <b><i>Provision under which convicted</i></b> | <b><i>Sentence</i></b>                                                                                 |
|---------------------------------|-----------------------------------------------|--------------------------------------------------------------------------------------------------------|
| Sole accused                    | U/s.294[b] IPC                                | To pay a fine of Rs.1,000/-, in default in payment of fine, to undergo 2 weeks SI                      |
|                                 | U/s.332 IPC                                   | To undergo 6 months SI and a fine of Rs.1,000/- in default to undergo 3 months SI                      |
|                                 | U/s.3[1] of TNPPDL Act                        | To undergo 1 year SI and a fine of Rs.16,600/-, in default in payment of fine, to undergo one month SI |



The sentences imposed on the accused are to run concurrently and the detention period already undergone by the accused is Ordered to be set off under section 428 of Cr.P.C.

3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in Sessions Case No.125 of 2020, 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 basic foundation of the complaint was not written by the defacto complainant, but has been written by P.W.3, who is not present at the scene of occurrence or an eye witness and there is a doubt as to very genesis of the complaint. 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.



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 evidence of witnesses, it is noticed that the petitioner has raised substantial grounds in the appeal which require detailed appraisal and considering the submissions of the learned counsel appearing for the petitioner 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 imposed on petitioner is suspended on the following conditions :

(i) The substantive sentence of imprisonment alone is suspended and the appellant 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 appellant is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each, with two sureties each for a like sum to the satisfaction of the Trial Court;



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(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 II Additional District and Sessions Judge, Tindivanam
2. The Inspector of Police,  
Roshanai Police Station,  
Tindivanam, Villupuram District
3. The Public Prosecutor, High Court, Madras.



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**V.SIVAGNANAM, J.**

vrc

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