



Crl.M.P.No. 6674 of 2023

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in
Crl.R.C. No. 1563 of 2017

G.K.ILANTHIRAIYAN, J.

Earlier, this Court suspended the sentence on certain condition, however, the petitioner failed to comply the condition and as such, this Court by an order dated 30.03.2023 cancelled the order of suspension granted by this Court in Crl.M.P.No.15765 of 2017 and the respondent was directed to secure the petitioner to confine him in prison. Accordingly, he was secured and confined to Prison. Now, the present petition was filed by the petitioner/A1, praying to suspend the sentence of imprisonment imposed upon them in S.C. No. 89 of 2010 dated 04.10.2016 by the learned Addl. Sessions Judge, Hosur, Krishnagiri and the conviction and sentence confirmed in C.A.No.31 of 2016 on 06.03.2017 by the learned Principal District and Sessions Judge, Krishnagiri and enlarge the petitioner on bail pending disposal of the above Criminal Revision.



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2. The petitioner herein is arrayed as A1 in S.C. No.89 of 2010 on the file of the learned Addl. Sessions Judge, Hosur, Krishnagiri. He was convicted of the offence under Section 392 r/w 397 I.P.C. and was sentenced to undergo 7 years rigorous imprisonment and to pay a sum of Rs.1,000/-, in default to undergo six months simple imprisonment. Aggrieved over the same, the co-accused have filed the criminal appeal in Crl.A.No. 30 of 2016 before the Principal Sessions Court, Krishnagiri and the petitioner has filed a Criminal Appeal in Crl.A.No.31 of 2016 and on hearing both sides, the learned Sessions Judge acquitted A2 and A3 and as against this petitioner, the sentence was modified to undergo 3 years R.I. by a common judgement dated 06.03.2017.

3. The case of the prosecution is that on 02.03.2009 around 16.00 hours, when the defacto complainant along with her husband travelling in their vehicle, the petitioner along with other accused restrained them and on threatening them at knife point, they robbed her jewels worth about Rs.80,000/-, thereby the petitioner along with other accused committed the offence punishable under Sec.392 r/w 397 I.P.C..



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4. According to the learned counsel for the petitioner, there are arguable points available in the Criminal Revision Case and the petitioner has got a fair chance of succeeding in the Criminal Revision. He would submit that the trial court imposed sentence to undergo 3 years R.I., however, now the petitioner already suffered incarceration for two years and 11 months. He would further submit that earlier, the petitioner filed a petition for suspension of sentence in Crl.M.P.No.15765 of 2017, which was allowed by this court on 21.02.2018 with conditions and one of the conditions that the petitioner shall appear before the Judicial Magistrate Court, Thenkanikottai, Krishnagiri District on the first working day of every month at 10.30 a.m. pending the said Revision. He would further submit that he has complied the condition, however, he was arrested by the respondent police and booked a false cases and also during Covid-19 pandemic, he could not comply the condition. Hence, this Court by an order dated 30.03.2023 recalled the bail order granted in Crl.M.P.No.15765 of 2017, dated 21.02.2018. He would also submit that after his release, he has not committed any offence, but the Krishnagiri



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District Police booked a false cases against him and this is the second petition for suspension of sentence. Hence, he prayed to suspend the substantive sentence imposed against the Petitioner.

5. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent/State raised serious objection for allowing this petition. Further, he would contend that the evidences recorded from the prosecution witnesses would prove the case of the prosecution beyond reasonable doubt. He would submit that if he is released on bail, he will abscond, it will be great difficult for them to secure him. That apart, he is an habitual offender and so far, he is involved in 32 previous cases similar in nature. According to him, interference of this Court is not necessary in the findings arrived at by the trial Court.

6. Heard the learned counsel appearing on either side and also perused the materials placed on record.



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7. Considering the facts and circumstances of the case, also considering the submissions of the learned counsel for the petitioner and the learned Government Advocate (crl. side) appearing for the respondent police and the fact that the petitioner is an habitual offender and so far he involved in 32 previous cases similar in nature, this Court is not inclined to suspend the sentence imposed on the petitioner. Accordingly, this Criminal Miscellaneous Petition is dismissed.

8. Post the Criminal Revision Case for final hearing. It is needless to say that though this Criminal Revision is pending, after completion of entire sentence, the petitioner is entitled for a release from Prison.

05.05.2023

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