



Crl.M.P. No.10773 of 2023 in Crl.R.C.. No.1310 of 2023

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

CORAM

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

Crl.M.P. No.10773 of 2023 in
Crl.R.C. No.1310 of 2023

Jothi Venkatesh

...Petitioner

Vs.

1. Parameshwari

2. Thirishanthini

... Respondents

Prayer : Criminal Miscellaneous Petition filed under Section 397(1) Cr.P.C. praying to suspend the sentence passed by the Family Judge, Namakkal, vide order dated 06.04.2023, in C.M.P.No.2 of 2022 in C.M.P. No.230 of 2021,, in CMP No.53 of 2020 in M.C. No.32 of 2018 and to enlarge the petitioner on bail pending disposal of the Criminal Revision Petition.

For Petitioner : Mr.S. Viswanathan
for M/s. Dass and Viswa Associates.



WEB COPY



Crl.M.P. No.10773 of 2023 in Crl.R.C.. No.1310 of 2023

ORDER

This criminal miscellaneous petition is filed seeking to suspend the sentence of imprisonment imposed on the petitioner by the learned Family Judge, Namakkal, vide order dated 06.04.2023, in C.M.P.No.2 of 2022 in C.M.P. No.230 of 2021, in CMP No.53 of 2020 in M.C. No.32 of 2018, and to enlarge the petitioner on bail pending disposal of the above Criminal Revision Petition.

2. The respondents herein filed a maintenance case in M.C.No.46 of 2017 on the file of the Chief Judicial Magistrate, Namakkal, which was transferred to Family Court, Namakkal, and renumbered as M.C.No.32 of 2018. The learned Family Judge, Namakkal, vide order dated 26.12.2019, directed the petitioner herein to pay a sum of Rs.3,000/- per month to the 1st respondent and Rs.5,000/- per month to the 2nd respondent. Since the same was not complied with he was sentenced to undergo simple imprisonment for 30 days vide orders dated 21.11.2020



Crl.M.P. No.10773 of 2023 in Crl.R.C.. No.1310 of 2023

WEB COPY

in C.M.P. No.53 of 2020 and a similar order was again passed on 08.06.2022 for non payment of arrears. Thereafter, the respondents filed a petition in C.M.P. No.02 of 2022 before the same court, stating that the petitioner has not paid arrears of maintenance amount for the period 31.07.2017 to 26.12.2019 to the tune of Rs.2,37,000/-, wherein the petitioner was sentenced by the learned Family Judge, Namakkal, vide his orders dated 06.04.2023, to undergo imprisonment for a period of 6 months or until the payment is made.

3. Challenging the above, the petitioner/ husband has filed Crl.R.C. No.1310 of 2023 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. Mr.S. Viswanathan learned counsel for the petitioner contended that the present petitioner is physically challenged and is not in a position to pay the said amount as there is no source of income for him. However he assured that the present petitioner would make payments



Crl.M.P. No.10773 of 2023 in Crl.R.C.. No.1310 of 2023

WEB COPY

once he is released on bail.

5. 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 sentence and bail with certain conditions.

6. Accordingly, this criminal miscellaneous petition stands allowed and the sentence of imprisonment is suspended and bail is granted to the petitioner on 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, Rasipuram.
- (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



Crl.M.P. No.10773 of 2023 in Crl.R.C.. No.1310 of 2023

WEB COPY

(iii) The petitioner shall appear before the trial court 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 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.

26.07.2023

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

Note: Issue order copy on 27.07.2023



WEB COPY



Crl.M.P. No.10773 of 2023 in Crl.R.C.. No.1310 of 2023

R. HEMALATHA, J.
bga

To

1. The Judicial Magistrate, Rasipuram.
2. The Superintendent of Prison,
Central Jail, Coimbatore.

**Crl.M.P. No.10773 of 2023 in
Crl.R.C. No.1310 of 2023**

27.07.2023
(2/2)

Page 6 of 6