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Crl.M.P.No.13954 of 2023

Crl.M.P.No.13954 of 2023

in

Crl.A.No.1215 of 2022

M.SUNDAR, J.,

and

R.SAKTHIVEL, J.,

[Order of this Court was made by R.SAKTHIVEL.J.]

This 'Criminal Miscellaneous Petition' [hereinafter 'Crl.MP' for the sake of convenience and clarity] has been filed by the petitioner seeking to modify one of the conditions imposed by Hon'ble predecessor Bench vide order dated 15.12.2022 passed in Crl.MP.No.18110 of 2022 in Crl.A.No.1215 of 2022.

2. The petitioner herein was convicted and sentenced by learned Principal District and Sessions Judge's Court, Ariyalur District on 07.04.2022 in S.C.No.62 of 2020 for alleged offences under Sections 449, 302 and 392 read with 34 of 'the Indian Penal Code, 1860 (Act 45 of 1860)' [hereinafter 'IPC' for the sake of brevity].

3. Feeling aggrieved with the judgement, the petitioner filed an appeal before this Court in Crl.A.No.1215 of 2022 along with a petition under Section 389(2) of 'The Code of Criminal Procedure, 1973 (2 of 1974)' [hereinafter 'Cr.PC' for the sake of brevity and clarity] seeking suspension of sentence in Crl.M.P.No.18110 of 2022. After hearing both sides, Hon'ble



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predecessor Bench of this Court vide order dated 15.12.2022 suspended the sentence and granted bail to the petitioner / appellant with the following 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 learned Judicial Magistrate No.I, Jayankondam, Ariyalur District;

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar Cards or Bank passbook and mobile number to ensure their identify; and

(iii) 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 appeal 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.'

4. The learned counsel for petitioner / appellant submitted that the petitioner is a widow and she is in jail from 07.04.2022 to till date and none of her relatives or her friends has come forward to execute the bond and



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stand for her as surety. Hence, the petitioner is not able to furnish surety as ordered by the Hon'ble Division Bench. In view of the facts and circumstances, the learned counsel prayed to allow the petition and thereby release the petitioner on execution of her own bond. Accordingly, the learned counsel prayed to allow the petition and thereby modify the condition No.(i) of paragraph No.(6) of the order passed in W.M.P.No.18110 of 2022.

5. Per contra, Mr.A.Gokulakrishnan, learned State Additional Public Prosecutor submitted that the petitioner has sons and daughters, they being blood sureties, they can execute the bond and hence, the prayer sought for by the petitioner is not maintainable. Accordingly, he prayed to dismiss the petition.

6. This Court has considered the submissions made by both sides.

7. It is to be noted that Hon'ble predecessor Bench suspended the sentence and granted bail to the petitioner on 15.12.2022. Since 15.12.2022, the petitioner is unable to execute the bond and furnish sureties as per the order of this Court. Considering the period of incarceration and also considering the facts and circumstances of this case, this Court is inclined to modify the condition No.(i) of paragraph No.(6) as follows:

(i) The petitioner shall be released on bail on executing



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her own bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) and thereafter the petitioner shall appear and sign before learned Judicial Magistrate No.I, Jayamkondan every Monday at 10.30 a.m.

8. Consequent to the above modification, this Court modifies the condition No.(iii) also as hereunder:

The petitioner shall appear before the trial Court every Monday at 10.30 a.m. until disposal of the appeal and if the petitioner is not able to appear before the trial Court on any day, she 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 her absence, as directed by the trial Court.

9. In the result, this Crl.MP is ordered to the above extent.

[M.S.,J.] [R.S.V.,J.]
12.09.2023

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M.SUNDAR, J.,
and
R.SAKTHIVEL, J.,



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