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Crl.M.P.No.67 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.05.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.M.P.No.67 of 2023

in

Crl.RC.No.12 of 2023

Aravindhakumar

...Petitioner

Versus

State Represented by
The Inspector of Police,
E-3, Saravanampatti Police Station,
Coimbatore.

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C to suspend the sentence of imprisonment imposed on the petitioner in S.C.No.125 of 2015 by an order dated 08.11.2021 on the file of I Additional Assistant Sessions Judge, Coimbatore and confirmed in Criminal Appeal No.172 of 2021 on the file of the III Additional District and Sessions Judge, Coimbatore by a judgment dated 26.10.2022 and release the petitioner on bail pending disposal of the above Criminal Revision.



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For Petitioner : Mr.K.Balasubramaniam
For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

This petition has been filed to suspend the sentence imposed on the petitioner in S.C.No.125 of 2015 by an order dated 08.11.2021 passed by the learned I Additional Assistant Sessions Judge, Coimbatore and confirmed in Criminal Appeal No.172 of 2021 by the learned III Additional District and Sessions Judge, Coimbatore vide a judgment dated 26.10.2022 and release the petitioner on bail pending disposal of the above Criminal Revision.

2. The petitioner is the accused in S.C.No.125 of 2015 on the file of the learned I Additional Assistant Sessions Judge, Coimbatore. He was convicted for the offence under Section 397 IPC and sentenced to undergo rigorous imprisonment for a period of seven years. Against which, the petitioner preferred an appeal before the learned III Additional District and Sessions Judge, Coimbatore in Criminal Appeal No.172 of



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2021 and the same was dismissed by confirming the judgment of the Trial Court. Aggrieved over the same, the petitioner has filed the present petition.

3. The learned counsel for the petitioner submitted that the petitioner was not known to the victim. However, the victim had identified the petitioner in trial. PW2, who is the husband of the victim, had admitted that the petitioner was shown to the victim in the police station. Hence, the evidence of the victim cannot be believed. Both the courts below overlooked this aspect.

4. According to the learned counsel for the petitioner, there are other arguable points available in the Criminal Appeal, which is not likely to be taken for final hearing in the near future and the petitioner/appellant has got a fair chance of succeeding in the Criminal Appeal and the sentence imposed against the petitioner/appellant may be suspended and he may be enlarged on bail.



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5. Per contra, the learned Additional Public Prosecutor 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. According to him, interference of this Court is not necessary in the findings arrived at by the trial Court.

6. Considering the facts and circumstances of the case and the submissions of the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent police and further this appeal is not likely to be taken for final hearing in the near future, this Court is of the view that there are arguable points in the revision and hence, the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, the relief of suspension of sentence and bail are granted on the following conditions:

- (a) The petitioner/appellant shall execute a bond for a sum of Rs.10,000/- (Rupees ten



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thousand only), with two sureties, each for a like sum to the satisfaction of the I Additional Assistant Sessions Judge, Coimbatore.

(b)The petitioner/appellant shall appear before the trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

7.Accordingly, this Criminal Miscellaneous Petition is ordered.

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pvs



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SUNDER MOHAN, J

pvs

To

- 1.The I Additional Assistant Sessions Judge,
Coimbatore
2. The III Additional District and Sessions Judge,
Coimbatore
- 3.The Inspector of Police,
E-3, Saravanampatti Police Station,
Coimbatore.
- 4.The Central Prison, Coimbatore
- 5.The Public Prosecutor,
High Court of Madras, Chennai

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