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*Crl.M.P.No2084 of 2023 in
Crl.RC No.255 of 2023*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 14.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

**Crl.M.P.No.2084 of 2023 in
Crl.RC No.255 of 2023**

Nandhakumar

... Petitioner

Vs.

The State: rep. by the Inspector of Police,
Q Branch CID, Chennai.
Crime No.5/2013

... Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 397(1) and 401 of Cr.P.C. to suspend the sentence imposed in the judgment dated 11.01.2021 made in C.C.No.657 of 2015 on the file of the II Metropolitan Magistrate, Egmore, Chennai and confirmed in Crl.A.No.22/2021 dated 25.11.2022 on the file of the XX Additional Sessions Judge, City Civil Court, Chennai and enlarge the petitioner on bail, pending disposal of the Criminal Revision Case.

For Petitioner : Mr.R.Prabakar

For Respondent : Mr.V.Meganathan,

Government Advocate(Crl.Side)

ORDER



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This petition has been filed to suspend the sentence imposed on the petitioner by the learned II Metropolitan Magistrate, Egmore, Chennai, vide judgment dated 11.01.2021 passed in C.C.No.657 of 2015, which was confirmed by the learned XX Additional Sessions Judge, City Civil Court, Chennai, vide judgment dated 25.11.2022 passed in Crl.A.No.22/2021, pending disposal of the Criminal Revision Case.

2. Totally there are 7 accused in C.C.No.657 of 2015 on the file of the II Metropolitan Magistrate Court, Egmore, Chennai and the petitioner herein is arrayed as A2. The learned Metropolitan Magistrate, vide judgment dated 11.01.2021 passed in C.C.No.657 of 2015, convicted the petitioner/A2 for the offence punishable under Section 14(A)(b) of Foreigners Act, 1946 and sentenced him to undergo 2 years simple imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo 1 month simple imprisonment, however, acquitted the petitioner/A2 from the offence under Section 420 IPC r/w 120B IPC. Challenging the above judgment, the petitioner preferred an appeal in Crl.A.No.22/2021, which was also confirmed by the learned XX Additional Sessions Judge, City Civil Court, Chennai, vide judgment dated 25.11.2022.

3. Challenging the conviction and sentence slapped by the Trial Court



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and the lower Appellate Court, the petitioner is before this Court.

4. The learned counsel for the petitioner submitted that the petitioner is having valid Passport and Visa and hence, the offence under Section 14(A)(b) would not be attracted. He further submitted that there are arguable points in this Criminal Revision Petition and the petitioner has fair chances to succeed the Criminal Revision and hence, prayed for suspension of sentence.

5. The learned Government Advocate(Crl.Side) appearing for the respondent that the petitioner is a citizen of Sri Lanka and he over stayed in India, without any valid documents.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) and perused the impugned judgments and the materials on record.

7. Taking into consideration of the above submission of the learned counsel appearing for the petitioner and the respondent, this Court finds that the petitioner has substantial grounds in this Criminal Revision Petition, which require detailed appraisal. Therefore, this Court is of the view that the



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petitioner is entitled to the relief of suspension of sentence.

8. Accordingly, it is ordered as follows.

(i) The substantive sentence of imprisonment alone is suspended and the petitioner shall surrender before the Trial Court within two weeks from the date of receipt of a copy of this order and on such surrender, the petitioner is ordered to be released on bail on his *executing a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) with two sureties, each for a likesum to the satisfaction of the learned II Metropolitan Magistrate, Egmore, Chennai.*

(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the bond and the Trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(iii) The petitioner being the Foreigner, Citizen of Sri Lanka, he shall stay in the Camp, as per the Rules prevailing over the State of Tamilnadu and the Government of India.

(iv) The petitioner shall appear before the Trial Court as and when required.



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14.02.2023

(2/3)

Index: Yes/No
Internet: Yes/No
mst

To

1. The II Metropolitan Magistrate, Egmore, Chennai.
2. The XX Additional Sessions Judge, City Civil Court, Chennai,
3. The Public Prosecutor, High Court, Madras.



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V.SIVAGNANAM, J.

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**14.02.2023
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