



CRL RC(MD) No.1147 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Monday, the Sixteenth day of October Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) Nos.14636 and 14638 of 2023

in

CRL RC(MD) No.1147 of 2023

S.MADHAN

... Petitioner / Petitioner /
Petitioner / Sole Accused

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
SOLAVANTHAN POLICE STATION,
MADURAI DISTRICT.
(CRIME NO.15/2018)

... Respondent / Respondent /
Respondent / Complainant

Prayer in CRL MP(MD). 14636/ 2023 :

To suspend the sentence imposed in the Judgment passed by the Learned 5th Additional and District Sessions Judge, Madurai in Crl.A.No.33/2022 dated 16.08.2023 confirming the Judgement passed by the Learned Judicial Magistrate, Vadipatti, in CC No.55 of 2019 dated 07.04.2022 and enlarge the petitioner on bail pending disposal of the above said Criminal Revision Petition.



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Prayer in CRL MP(MD). 14638/ 2023 :

To exempt the petitioner from surrendering in view of conviction in the Judgment passed by the Learned 5th Additional and District Sessions Judge, Madurai in Crl.A.No.33/2022 dated 16.08.2023 confirming the Judgement passed by the Learned Judicial Magistrate, Vadipatti, in CC No.55 of 2019 dated 07.04.2022 and enlarge the petitioner on bail pending disposal of the above said Criminal Revision Petition.

Prayer in CRL RC(MD). 1147/ 2023 :

To call for the records and set aside in the Judgement passed by the Learned 5th Additional and District Sessions Judge, Madurai in Crl.A.No.33/2022 dated 16.08.2023 confirming the Judgement passed by the Learned Judicial Magistrate, Vadipatti, in CC No.55 of 2019 dated 07.04.2022 and revise the same.

Order : These criminal miscellaneous petitions coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.MOHIDEEN BASHA N, Advocate for the petitioner and of Mr.S.MANIKANDAN, Government Advocate (Crl.side) on behalf of the Respondent, while admitting the criminal revision case, the court made the following order:-

These Criminal Miscellaneous Petitions are filed to suspend the sentence passed by the learned Judicial Magistrate, Vadipatti, in C.C.No.55 of 2019, dated 07.04.2022, which was confirmed in Criminal Appeal No.33 of 2022, dated 16.08.2023 by the learned 5th Additional District and Sessions Judge, Madurai, enlarge the petitioner on bail pending disposal of the Criminal Revision Case and for exemption of his surrender pursuant to the aforesaid Judgment.

2. The learned counsel appearing for the petitioner submitted that the



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petitioner has been convicted by the trial Court for the alleged offence under Section 279 of Indian Penal Code and sentenced him to undergo simple imprisonment for a period of three months and for the offence under Section 304(A) of Indian Penal Code, he was sentenced to undergo simple imprisonment for a period of one year in C.C.No.55 of 2019, on the file of the learned Judicial Magistrate, Vadipatti.

3. The learned 5th Additional District and Sessions Judge, Madurai, confirmed the conviction and sentence and dismissed the Criminal Appeal No.33 of 2022, dated 16.08.2023. Challenging the same, the Criminal Revision Case has been filed before this Court along with these miscellaneous petitions.

4. It is submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

5. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he opposed to grant suspension of sentence.

6. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

7. The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material



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particulars. The fact remains that there are arguable points involved in this criminal revision and further the criminal revision is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

8. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision with the following directions:-

(i) The petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the learned learned Judicial Magistrate, Vadipatti.

(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 card or Bank Pass Book to ensure their identity; and

(iii) The petitioner shall appear before the trial Court once in a month i.e., on the first working day of every English calendar month at 10.30 a.m., until further orders.



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9. The petitioner is not exempted from surrendering before the trial Court and the petitioner is directed to surrender before the learned learned Judicial Magistrate, Vadipatti,, within a period of two weeks from the date of receipt of copy of this order. Hence, CrI.M.P.(MD)No.14638 of 2023 is dismissed.

sd/-
16/10/2023

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/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TTA

To

1.The V Additional District and Sessions Judge,
Madurai.

2.The Judicial Magistrate,
Vadipatti.

3.Do through the Chief Judicial Magistrate,
Madurai District.

4.The Inspector of Police,
Solavanthan Police Station,
Madurai District.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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ORDER

IN

CRL MP(MD) Nos.14636 and 14638 of 2023

in

CRL RC(MD) No.1147 of 2023

Date :16/10/2023

ED/VRS/SAR- (26/10/2023) 6P / 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from
17/07/2023