



CRL MP(MD) No.15247 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the Thirtieth day of November Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.15247 of 2023

in

CRL A(MD)No.511 of 2023

AROCKIA SELVAN

... APPELLANT/1st ACCUSED

(PRESENTLY CONFINED AT CENTRAL
PRISON, PALAYAMKOTTAI)

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
ASARIPALLAM POLICE STATION,
KANYAKUMARI DISTRICT.

... RESPONDENT/COMPLAINANT

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge him on bail by suspending the sentence imposed on him by the II Additional Assistant Sessions Court, Nagercoil in SC No.23/2023 dated 12.06.2023, pending disposal of the above Criminal Appeal.

PRAYER in CRL A(MD)No.511 of 2023:

To call for the records and set aside the Judgment made in S.C.No.23 of 2022 by the II Additional Assistant Sessions Court, Nagercoil dated 12.06.2023.



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Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.D.VENKATESH, Advocate for the petitioner and of Mr.B.NAMBISELVAN, Additional Public Prosecutor on behalf of the Respondent, the Court made the following order:-

Reserved on : 16.11.2023
Pronounced on : 30.11.2023

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the II Additional Assistant Sessions Court, Nagercoil in S.C.No.23 of 2022, dated 12.06.2023 and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

2. The case of the prosecution is that the petitioner and P.W.1/Joseph Antony are residing in the same street. On 16.06.2021 at about 14.30 hours, the petitioner along with other accused persons cut down the Drumstick tree situated near the house of PW.1.'s friend. When the same was questioned by them, the petitioner along with other accused persons abused P.W.1 by using filthy language and also assaulted him by using Aruval and also threatened him with dire consequences. Based on the complaint F.I.R. was registered in Crime No.179 of 2021 for the offence under Sections 294(b), 307 and 506(ii) of IPC. After completion of investigation, final report was filed before the II Additional Assistant Sessions Court, Nagercoil and the same was taken on file in S.C.No.23 of 2022.



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3. Before the trial Court, on the side of the prosecution, 14 witnesses have been examined as P.W.1 to P.W.14 and 20 documents were marked as Ex.P1 to Ex.P20 and 7 MOs marked. On the defence side, no witness was examined and no exhibit was marked.

4. The learned Trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 12.06.2023 convicting the petitioner for the offence under Section 307 of IPC and sentenced him to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of three months. Challenging the above said conviction and sentence, the petitioner preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

5. The learned counsel for the petitioner would submit that the petitioner herein arrayed as Accused No.1 and other Accused Nos.2 to 4 were already acquitted by the Trial Court and the petitioner is in jail from 12.06.2023. He would further submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses and he prays to allow this petition.



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6. The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

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

8. The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal 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.

9. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended till the disposal of the appeal on the following conditions:-

(i) The petitioner/Accused No.1 is directed to be enlarged on bail on condition that the petitioner/Accused No.1 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 Judicial Magistrate No.1, Nagercoil;



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(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/Accused No.1 shall appear before the trial Court on first working day of every week at 10.30 a.m., until further orders.

sd/-
30/11/2023

/ TRUE COPY /

30/11/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSD

TO

- 1 THE II ADDITIONAL ASSISTANT
SESSIONS JUDGE, NAGERCOIL.
- 2 THE JUDICIAL MAGISTRATE NO.I
NAGERCOIL.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
- 4 THE INSPECTOR OF POLICE
ASARIPALLAM POLICE STATION,
KANYAKUMARI DISTRICT.
- 5 THE SUPERINTENDENT,
CENTRAL JAIL, PALAYAMKOTTAI.



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6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.D.VENKATESH, Advocate (SR-17148[I] dated 30/11/2023)

ORDER
IN

CRL MP(MD) No.15247 of 2023
in

CRL A(MD)No.511 of 2023
Date :30/11/2023

SS/SAR- /30/11/2023/6P/8C

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