



CRL MP(MD) No.18006 of 2023

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

Wednesday, the Twentieth day of December Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.18006 of 2023

in

CRL RC(MD) No.1422 of 2023

S.AZARUDEEN

... PETITIONER/PETITIONER

Vs

THE INSPECTOR OF POLICE
CANTONMENT POLICE STATION(CRIME),
TRICHY CITY.
CRIME NO.1405 OF 2017.

... RESPONDENT/RESPONDENT

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed upon to the petitioner in Criminal Appeal No.145/2022 on the file of the 1st Additional District and Sessions Judge, PCR, Trichy, dated 25.10.2023 confirming the conviction and sentence made in CC.No.321/2018 on the file of the Learned Judicial Magistrate No.II, Trichy dated 23.11.2022 and enlarge him on bail pending disposal of the main Criminal Revision Case.

Prayer in CRL RC(MD). 1422/ 2023 :

To call for the records pertaining to the judgment of the learned First Additional District and Sessions Judge, PCR, Trichy passed in Criminal Appeal No.145/2022 dated 25.10.2023 confirming the conviction and sentence of the petitioner imposed by the Learned Judicial Magistrate No.II, Trichy in C.C.No.321 of 2018 dated 23.11.2022 and set aside the same.

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

<https://www.mhc.tri.goa.in/judis>



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MR.T.LENINKUMAR, 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:-

This Criminal Miscellaneous Petition is filed to suspend the sentence passed by the learned Judicial Magistrate No.II, Trichy, in C.C.No.321 of 2018, dated 23.11.2022, which was confirmed in Criminal Appeal No.145 of 2022, dated 25.10.2023 by the First Additional District and Sessions Judge (PCR), Trichy, enlarge the petitioner on bail pending disposal of the Criminal Revision Case.

2. The learned counsel appearing for the petitioner submitted that the petitioner has been convicted by the trial Court on 23.11.2022 for the alleged offence under Section 379 of Indian Penal Code and sentenced him to undergo simple imprisonment for a period of two years and to pay a fine of Rs.10,000/-, in default to undergo simple imprisonment for a period of two months, in C.C.No.321 of 2018, on the file of the learned Judicial Magistrate No.II, Trichy.

3. The learned First Additional District and Sessions Judge (PCR), Trichy, confirmed the conviction and sentence and dismissed the Criminal Appeal No.145 of 2022, dated 25.10.2023. Challenging the same, the Criminal Revision Case has been filed before this Court along with this miscellaneous petition.

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



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particulars between the evidence of the prosecution witnesses.

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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 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 Judicial Magistrate No.II, Trichy.



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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 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.

sd/-
20/12/2023

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/01/2024

Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

1 THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE (PCR), TRICHY.

2 THE JUDICIAL MAGISTRATE NO.II, TRICHY.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TRICHY.

4 THE INSPECTOR OF POLICE, CANTONMENT POLICE STATION(CRIME),
TRICHY CITY.

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

+1 CC to M/s.T.LENINKUMAR, Advocate (SR-18129[I] dated 21/12/2023)



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ORDER

IN

CRL MP(MD) No.18006 of 2023

in

CRL RC(MD) No.1422 of 2023

Date :20/12/2023

RS/JGB/SAR-(05.01.2024) 5P 7C

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