



WEB COPY



Crl.MP.No.9277/2024 in Crl.A.No.838/2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.08.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.MP.No.9277/2024 in Crl.A.No.838/2024

Bajarangi Kumar

.. Petitioner

Versus

State represented by
The Inspector of Police,
E-2 Peelamedu Police Station,
Coimbatore - 641 004.
[Crime No.1833 of 2020]

.. Respondent

Prayer:-Civil Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence passed in S.C.No.50 of 2021 by the learned I Additional District Sessions Judge, Coimbatore dated 22.12.2022 and to enlarge the petitioner on bail pending disposal of the above appeal.

For Petitioner : Mr.M.V.Bibin Mahesh

For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor



WEB COPY



Crl.MP.No.9277/2024 in CrI.A.No.838/2024

ORDER

[Order of the Court was made by S.M.SUBRAMANIAM, J.]

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner vide judgement and order dated 22.12.2022 passed in S.C.No.50 of 2021 on the file of the learned I Additional District and Sessions Judge, Coimbatore and to enlarge the petitioner on bail pending disposal of the appeal.

2. The petitioner is an accused in SC. No.50 of 2021 on the file of the learned I Additional District & Sessions Judge, Coimbatore. The respondent Police prosecuted the petitioner for the offence under Section 302 I.P.C. After trial, the Trial Court found him guilty and imposed sentence to undergo imprisonment for LIFE and to pay a fine of Rs.2,000/-. In default of payment of fine to undergo simple imprisonment for a period of six months.



Crl.MP.No.9277/2024 in CrI.A.No.838/2024

WEB COPY

3. Aggrieved by this, the petitioner filed an appeal. Pending appeal filed this miscellaneous application to suspend the sentence.

4. Mr.M.V.Bibin Mahesh, the learned Counsel appearing on behalf of the petitioner at the appeal stage produced the Birth Certificate of the petitioner convict.

5. It is an admitted fact that neither the Birth Certificate was produced before the trial court nor the ground relating to the age of attaining majority has been raised. The jurisdiction of the Trial Court for conducting a trial cannot be raised before the appellate court after delivering Judgment in the criminal case.

6. While arguing the case, the learned counsel for the petitioner first time raised the plea of Juvenility before this Court. Admittedly, it was not taken before the Trial Court. Further, the petitioner has not filed any affidavit through parents or any sibling or any relative in support the claim of juvenility raised for the first time in the appeal. The date of birth has to be



Crl.MP.No.9277/2024 in CrI.A.No.838/2024

WEB COPY

decided upon a proper inquiry in accordance with the provisions of the Juvenile Justice Act 2015 to find out whether the petitioner is a Juvenile on the date of the incident, has to be ascertained. Therefore, without any inquiry, while considering the suspension of sentence, the plea cannot be entertained. Therefore, in the absence of any petition in this regard, the contention of the learned counsel for the petitioner cannot be entertained. If the petitioner filed any application raising the plea of juvenility, it will be considered later. At present, for suspension of sentence, no ground is made out. Therefore, this miscellaneous petition stands **dismissed**.

[S.M.S., J.] [V.S.G., J.]

08.08.2024

veda

Internet: Yes



Crl.MP.No.9277/2024 in CrI.A.No.838/2024

To

WEB COPY

1.The I Additional District & Sessions Court,
Coimbatore.

2.The Inspector of Police,
E-2 Peelamedu Police Station,
Coimbatore - 641 004.

3.Central Prison,
Coimbatore.

4.The Additional Public Prosecutor,
Madras High Court.



WEB COPY



Crl.MP.No.9277/2024 in Crl.A.No.838/2024

S.M.SUBRAMANIAM, J.

and

V.SIVAGNANAM, J.

veda

Crl.MP.No.9277/2024 in Crl.A.No.838/2024

08.08.2024