



Crl.M.P.Nos.3430 & 6844 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2024

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

Crl.M.P.Nos.3430 & 6844 of 2024

in

Crl.A.No.236 of 2024

A.Joshwa @ Yekoshva

...Petitioner

Vs.

The State rep. by,
The Inspector of Police,
H-1, Washermenpet Police Station,
Chennai – 600 021.

...Respondent

Criminal Miscellaneous Petition filed under Section 389(1) of Criminal Procedure Code to suspend the sentence and the conviction dated 20.06.2023 passed in S.C.No.412 of 2019 against the petitioner/appellant/2nd accused by the learned Trial Judge, the XVI Additional District and Sessions Judge at Chennai, pending disposal of the above appeal and consequently enlarge the petitioner/appellant/2nd accused on bail in connection with the judgment in S.C.No.412 of 2019 dated 20.06.2023.

For Petitioner : Mr.V.Ramanareddy

For Respondent : Mrs.G.V.Kasthuri, Addl. Public Prosecutor



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ORDER

Though the appellant in Crl.A.No.236 of 2024 filed a Miscellaneous petition in Crl.MP.No.6844 of 2024, seeking to fix an early date for hearing the main Criminal Appeal, in view of the limited request of the learned counsel for the petitioner/appellant, the criminal miscellaneous petition in Crl.M.P.No.6844 of 2024, seeking to suspend the sentence imposed by the trial court on the petitioner is taken up for final disposal.

2. This Criminal Miscellaneous petition has been filed to suspend the sentence of imprisonment imposed in S.C.No.412 of 2019 dated 20.06.2023 on the file of the XVI Additional District and Sessions Judge, Chennai.

3. The appellant was convicted for the offence under Sections 147 & 299 of IPC and with respect to the conviction under Section 147 of IPC, the petitioner was sentenced to undergo 1 year of simple imprisonment and with respect to the conviction under Section 299 of IPC, the petitioner was sentenced to undergo 10 years of rigorous imprisonment and was ordered to



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pay a compensation of Rs.2,000/- in default to undergo 1 year of simple imprisonment, vide order made in S.C.No.412 of 2019 dated 20.06.2023 on the file of the XVI Additional District and Sessions Judge, Chennai. Aggrieved by the same, the above appeal has been filed along with this petition seeking suspension of sentence.

4. The learned counsel for the petitioner/appellant submitted that the petitioner is not the main accused and he is only arrayed as A2 and the main accused A1 and other co-accused persons were already released on bail, pursuant to the order of this Court dated 15.03.2024 made in Crl.MP.Nos.18634 & 20003 of 2023. He further submitted that, there are lot of material contradictions in the evidence of the prosecution and the prosecution evidence is also highly unbelievable and that the petitioner is now confined in Central Prison, Puzhal, Chennai.

5. Heard the submissions of the learned Additional Public Prosecutor appearing for the respondent.

6. Having regard to the fact that there are arguable points involved in



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the appeal and further, the appeal is not likely to be taken up for final hearing in the near future and also considering the period of incarceration, I am of the considered opinion that the petitioner/appellant is entitled for the relief of suspension of sentence.

7. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties each for a like sum to the satisfaction of the XV Metropolitan Magistrate, George Town, Chennai and on further condition that the petitioner shall appear before the trial Court at 10.30 a.m. on the first working day of every English Calendar month, pending appeal.

8. These Criminal miscellaneous petitions are ordered accordingly.

9. Post the main Criminal Appeal as per seriatum.

24.04.2024

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Note to office: Issue order copy on 30.04.2024.

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To

1. The XV Metropolitan Magistrate, George Town, Chennai
2. The XVI Additional District and Sessions Judge, Chennai
3. The Central Prison, Puzhal, Chennai
4. The Public Prosecutor,
High Court of Madras.
5. The Inspector of Police,
H-1, Washermenpet Police Station,
Chennai – 600 021.



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M.DHANDAPANI, J.

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