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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2024

CORAM

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

Crl.M.P. No.4830 of 2024
in Crl.A.No.314 of 2024

Mohamed Rafiq,
S/o.Santhu Mohamed ... Petitioner

-Vs-

The State Rep.by
The Inspector of Police,
D4-Kuniamuthur,
L&O Police Station.
Crime No.875 of 2014 ... Respondent

Prayer: Criminal Miscellaneous Petition is filed under Section 389(1) of the Criminal Procedure Code, to suspend the sentence of imprisonment imposed in the judgment dated 28.02.2024 made in S.C.No.37 of 2018 on the file of the III Additional District and Sessions Court, Coimbatore and enlarge the petitioner on bail, pending disposal of the criminal appeal.

For petitioner : Mr.K.Balasubramaniam

For Respondent : Mrs.G.V.Kasthuri
Additional Public Prosecutor

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O R D E R

The Criminal Appeal has been filed as against the judgment and sentence passed by the learned III Additional District and Sessions Judge, Coimbatore in S.C.No.37 of 2018, dated 28.02.2024, in and by which, the petitioner was convicted for the offence under Section 304(ii) of IPC and sentenced to undergo rigorous imprisonment for ten years and to pay a fine of Rs.5,000/-, in default, to undergo further simple imprisonment for a period of three months. The period of sentence already undergone is ordered to be set off under Section 428 of Cr.P.C. Challenging the same, the petitioner has filed the criminal appeal and the present miscellaneous petition seeking suspension of sentence of imprisonment.

2. The learned counsel for the petitioner submits that in order to show his *bonafide*, the petitioner has given a sum of Rs.5,00,000/- (Rupees Five Lakhs only) by way of cheque to the son of the deceased.

3. The son of the deceased appeared before this Court and

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submitted that he has received a sum of Rs.5,00,000/- from the petitioner.

4. The learned counsel for the petitioner has raised several arguable grounds insofar the appeal is concerned and it will take some more time for this Court to take up the criminal appeal and to dispose of the same.

5. Considering the facts and circumstances of the case and the period of incarceration, the Criminal Miscellaneous Petition is ordered and the punishment of imprisonment imposed as against the petitioner is hereby suspended and he is directed to be released on bail on the following conditions:

a) the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) to the satisfaction of the learned III Additional District and Sessions Judge, Coimbatore along with two sureties for a like sum;

b) the petitioner shall report before the Court below on the first working day of every month, pending disposal of the appeal.

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Note: Issue order copy on 09.07.2024

To

1. The Inspector of Police,
   D4-Kunaimuthur,
   L&O Police Station.

2. The learned III Additional District and Sessions Judge,
   Coimbatore.

3. The Central Prison,
   Coimbatore.

4. The Public Prosecutor,
   High Court of Madras.

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M.DHANDAPANI, J.

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