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CrI.OP.No.15104 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.OP.No.15104 of 2024

M.Subbiah

... Petitioner

Vs.

State by Inspector of Police,
Central Crime Branch, Team-5,
Veppery, Chennai-7.
(Cr.No.795 of 2005)

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the order passed in CrI.MP.No.15140 of 2024 in CrI.Appeal.No.417 of 2024 dated 06.06.2024 on the file of the learned Principal Sessions Judge, Chennai and enlarge the petitioner on bail.

For Petitioner : Mr.T.R.Ravi
for K.Shanmugam

For Respondent : Mr.S.Udaya Kumar
Government Advocate (CrI.Side)



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ORDER

The petitioner herein is the accused in C.C.No.4534 of 2009 on the file of CCB and CBCID Metropolitan Magistrate Court, Chennai. On 02.02.2024, the trial Court has delivered Judgment holding the petitioner guilty of offence under Section 420 IPC r/w 34, and 468 r/w of IPC. He was sentenced to undergo three years rigorous imprisonment and to pay fine of Rs.3000/-, in default, to undergo three months simple imprisonment for each of the charges. The period of sentence was ordered concurrently, the trial Court has suspended the sentence for 30 days after deposit of the fine amount to enable the petitioner herein to prefer an appeal. Accordingly, the petitioner has preferred appeal, but, not in time. Therefore, the lower Appellate Court though entertained the appeal and taken it on file in C.A.No.417 of 2024 has dismissed the application for suspension of sentence on the premise that after the lapse of 30 days the trial Court might have issued conviction warrant. Therefore, it is appropriate for the petitioner to appear before the trial Court and thereafter seeks for suspension of sentence. The said order of the lower Appellate Court is under challenge now in this petition filed under Section 482 of Cr.P.C.



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2. The learned counsel for the petitioner submits that the appeal was filed in time with defect, therefore, the delay was caused in rectifying their defect in the appeal papers. The said delay was bonafide and the petitioner is ready to abide by any condition imposed by the Court for suspension of sentence.

3. Taking into consideration, the submissions made by the learned counsel appearing for the petitioner and the learned Government Advocate (CrI.Side) who on instructions states that similarly placed co-accused were granted suspension of sentence by the lower Appellate Court on condition, since their appeal and application for suspension of sentence was filed in time. To meet the ends of justice, it is appropriate to direct the petitioner herein to surrender before the learned Judicial Magistrate and execute a bond for a sum of Rs.1,00,000/- and furnish two sureties of likesum.

4. If warrant already been executed by the learned Judicial Magistrate, the same may be recalled on appearance of the petitioner and the sureties may be tested forthwith. Apart from the above condition, the learned Judicial Magistrate shall impose any other conditions which deem



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fit and appropriate. The petitioner shall surrender before the Judicial
Magistrate on or before 05.07.2024.

5. With the above directions, this Criminal Original Petition is
disposed of.

27.06.2024

Vv

To

1. The Inspector of Police,
Central Crime Branch, Team-5,
Veppery, Chennai-7.
2. The Public Prosecutor,
High Court of Madras, Chennai.



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Dr.G.JAYACHANDRAN,J.

Vv

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