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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2024

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

Crl.M.P. No.10233 of 2024

in

Crl.A. No.43 of 2024

1. Ganesh

2. Jagadeesh

... petitioners

-Vs-

The Inspector of Police,
Hasthampatti Police Station,
Salem.
Cr.No.314 of 2012

... Respondent

Prayer: Criminal Miscellaneous Petition is filed under Sections 389 (i) of the Criminal Procedure Code, to suspend the sentence of imprisonment passed by the learned Sessions Judge, Mahalir Neethi Mandram (Mahila Court) Salem dated 15.09.2021 in SC. No.131 of 2018 and release the petitioners/appellants.

For petitioner : Mr.S.Kingston Jerold

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

ORDER



The Criminal Revision has been filed to suspend the sentence of imprisonment passed by the learned Sessions Judge, Mahalir Neethi Mandram (Mahila Court) Salem dated 15.09.2021 in SC. No.131 of 2018.

2. The case of the prosecution is that the petitioners have committed robbery by showing the knife to the victim and forcibly removed 6 sovereigns of gold thalikodi from her neck. Based on the complaint lodged, the respondent police registered a case and filed a final report before the learned Sessions Judge, Mahalir Neethi Mandram (Mahila Court) Salem. After examination of witness and document, the learned Judge was found guilty and convicted the first petitioner for an offence under Section 341, 392 read with 397 of IPC and convicted the second petitioner for an offence under Section 341, 392 read with 397 and 506(ii) of IPC. Convicted the first petitioner for the offence under section 341 of IPC and sentenced to undergo one month and convicted for the offence under Section 392 read with 397 of IPC, sentenced to undergo ten years of RI and to pay a fine of Rs.1000/- in default, the first accused has to undergo additional rigorous imprisonment for one year.



Convicted the second petitioner for the offence under section 341 of IPC and sentenced to undergo one month and convicted for the offence under Section 392 read with 397 of IPC, sentenced to undergo ten years of RI and to pay a fine of Rs.1000/- in default, the second petitioner accused has to undergo additional rigorous imprisonment for one year. Further, convicted for the offence under Section 506(ii) of IPC and sentenced to undergo seven years RI. The above said sentences shall run concurrently. Challenging the same, the petitioner has filed appeal and the present miscellaneous petition seeking suspension of sentence of imprisonment.

3. The learned counsel for the petitioners has raised several arguable grounds insofar the petitioner and it will take some more time for this Court to take up the appeal and to dispose of the same. The learned counsel further submitted that the petitioners are in prison for more than six months. Hence, he seeks to grant bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the first petitioner is the father and the second petitioner is his son. Apart from this case, there are eight cases pending as



against the second second petitioner and he is a habitual offender. Hence, she vehemently opposed to grant bail to the petitioners.

5. Heard the learned counsel on either side and perused the materials available on record.

6. Taking into consideration of the facts and circumstance of this case and the fact that the second petitioner is a habitual offender and eight previous cases are pending against him, this Court is not inclined to grant bail to the second petitioner. Considering the period of incarceration, this Court is inclined to grant bail to the first petitioner and the punishment of imprisonment imposed as against the first petitioner is hereby suspended and he is directed to be released on bail on the following conditions:

"a) the first petitioner shall execute a bond for a sum of Rs.10,000/- to the satisfaction of the learned Judicial Magistrate-3, Salem along with two sureties for a like sum;

b) the first petitioner shall report before the Judicial Magistrate-3, Salem on the first working day



of every week at 10.30 AM,till the disposal of the appeal; and

c. The first petitioner shall not involve in similar or any other offense in future"

7. In the result, this petition is allowed in respect of the first petitioner and the same is dismissed in respect of the second petitioner.

22.07.2024

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Note: Issue order copy on 23.07.2024

To

1. TheThe Inspector of Police,
Hasthampatti Police Station,
Salem.

2. The Sessions Judge,
Mahalir Neethi Mandram
(Mahila Court) Salem.

3. The learnedJudicial Magistrate-III,
Salem.

4. The Superintendent, Central Prison, Salem.

5. The Public Prosecutor, High Court of Madras.



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M.DHANDAPANI, J.

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