



Crl.M.P.No.11715 of 2024 in Crl.A.No.636 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.11715 of 2024
in Crl.A.No.636 of 2023

Salaparai Mani @ Mani,
S/o.Chinnasamy

... Petitioner

Vs.

The State rep.by:
Inspector of Police,
Yercaud Police Station,
Salem District.
Crime No.53/2016.

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of Code of Criminal Procedure, to suspend the sentence imposed in S.C.No.30 of 2017 dated 25.04.2023 on the file of the learned 1st Additional Assistant Sessions Judge, Salem and enlarge the petitioner on bail pending disposal of the Crl.Appeal.

For Petitioner : Mr.R.Sankarasubbu

For Respondent : Mr.R.Vinothraja,
Government Advocate (Crl. Side)

ORDER



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This Criminal Miscellaneous Petition has been filed to suspend the sentence of imprisonment imposed in S.C.No.30 of 2017, dated 25.04.2023 on the file of the I Additional Assistant Sessions Court, Salem and to enlarge the petitioner on bail pending disposal of the appeal.

2.It is the case of the prosecution that the petitioner along with other accused entered into a criminal conspiracy to commit dacoity at the house of the defacto complainant; and that pursuant to the said conspiracy, trespassed into the house of the defacto complainant; and that the petitioner armed with knife and iron rod along with A2 and committed dacoity of 21 sovereigns of gold jewels and cash of Rs.35,000/-.

3.The petitioner was convicted for offence under Sections 451 and 395 r/w 397 of IPC and in respect of conviction under Section 451 of IPC, the petitioner was sentenced to undergo four years imprisonment and was ordered to pay a fine of Rs.5,000/- and in default of payment of fine to undergo simple imprisonment for two months and in respect of the conviction under Section 395 r/w 397 of IPC, the petitioner was sentenced to undergo ten years of rigorous imprisonment and was ordered to pay a fine of



Rs.5,000/- and in default of payment of fine, to undergo simple imprisonment for another two months *vide* judgment, dated 25.04.2023 made in S.C.No.30 of 2017.

4.Heard Mr.R.Sankarasubbu, learned counsel for the petitioner and Mr.R.Vinothraja, learned Government Advocate (Crl. Side) appearing for the respondent/State.

5.The learned counsel appearing for the petitioner submitted that the petitioner is innocent and no Test Identification Parade was conducted and that the recovery witnesses turned hostile and there are material contradictions in the evidence of the prosecution witnesses and hence, he prayed that the sentence imposed on the petitioner may be suspended.

6.The learned Government Advocate (Crl. Side) *per contra* submitted that the petitioner is an habitual offender and earlier suspension of sentence filed in Crl.M.P.No.8191 of 2023 in Crl.A.No.636 of 2023 was dismissed by this Court on 25.06.2024 by recording the fact that the petitioner had six previous cases against him.



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7.The learned counsel for the petitioner in reply submitted that all the cases against the petitioner except one have ended in acquittal and this fact was not brought to the notice of this Court while deciding the earlier petition for suspension of sentence. He further submitted that the petitioner was acquitted by the learned Judicial Magistrate, Yercaud in C.C.Nos.16, 17, 18 & 19 of 2023 by judgment, dated 31.08.2023.

8.The learned Government Advocate (Crl. Side) on instructions would submit that except for one case, which is pending before the learned Additional Sessions Judge, Salem, the petitioner has been acquitted in all other cases.

9.This Court is of the view that there is only one case is pending against the petitioner which was not brought to the notice of this Court earlier and that this Court had granted bail to A2 by order, dated 25.06.2024 in Crl.M.P.No.8191 of 2023 who is similarly placed. Since there are arguable points in the appeal and the sentence against the similarly placed accused has been suspended, this Court is inclined to grant relief of



suspension of sentence to the petitioner.

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10. Accordingly, this criminal miscellaneous petition stands allowed and the sentence imposed on the petitioner, is suspended and he is ordered to be released on bail on the following conditions:

(i) 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 learned I Additional Assistant Sessions Court, Salem;

(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity; and

(iii) The petitioner shall appear before the respondent Police once in a week at 10.30 a.m. until further orders; and

(iv) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until further orders and if he is not



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able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

06.11.2024

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To

- 1.The I Additional Assistant Sessions Court,
Salem.
- 2.The Inspector of Police,
Yercaud Police Station,
Salem District.
- 3.The Central Prison,
Salem.
- 4.The Public Prosecutor,
Madras High Court.

SUNDER MOHAN, J.

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