



Crl.M.P.No.13422 of 2024 in Crl.A.No.1212 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.13422 of 2024
in Crl.A.No.1212 of 2024

Kiran @ Pavan

... Petitioner/A4

Vs.

The State Rep. by
The Inspector of Police,
SIPCOT Police Station,
Krishnagiri District – 635 126.
(Cr.No.617/2020)

...Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389[1] of Cr.P.C./431/(1) of BNSS to suspend the sentence imposed in S.C.No.7 of 2021 dated 14.08.2024 on the file of the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.M.Kavin Castro

For Respondent : Dr.C.E.Pratap
Government Advocate (Crl. Side)

ORDER

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed on the petitioner/A4 by judgment and order dated 14.08.2024 passed in S.C.No.7 of 2021 on the file of the



learned Sessions Judge, Fast Track Mahila Court, Krishnagiri, and to enlarge the petitioner on bail pending disposal of the appeal.

2. The case of the prosecution is that the petitioner along with six others trespassed into the house of the *de-facto* complainant and at knife point grabbed 8 ½ sovereigns of gold jewels.

3. The petitioner, who is arrayed as Accused No.4 in the above Sessions Case, was convicted and sentenced as follows:

Offence under Section	Sentence imposed
450 of the IPC	To undergo RI for ten years and to pay a fine of Rs.1,000/- in default to undergo SI for six months.
395 of the IPC	To undergo RI for ten years and to pay a fine of Rs.1,000/- in default to undergo SI for six months
399 r/w 402 of the IPC	To undergo RI for seven years and to pay a fine of Rs.1,000/- in default to undergo SI for six months
395 r/w 397 of the IPC	To undergo RI for seven years
Sentences were ordered to run concurrently.	

4. Heard Mr.Kavin Castro, learned counsel for the petitioner; Mr.Dr.C.E.Pratap, learned Government Advocate (Crl.Side) appearing for the respondent.



5. The learned counsel for the petitioner/A4 would submit that the petitioner was not identified by P.W.1/the victim, in Court; that his identification in the identification parade is not substantive and in any case valueless since the photographs of the petitioner were shown to the victim in the police station; that the jewels have been recovered from other accused; and that there are no previous antecedents against the petitioner and therefore prayed for the grant of suspension of sentence to the petitioner.

6. The learned Public Prosecutor, *per contra* would submit that the evidence of P.W.1 and other circumstances would conclusively establish the guilt of the petitioner and prayed for dismissal of the suspension of the sentence.

7. Considering the submissions made by the learned counsel for the petitioner; that the petitioner was not identified by the victim in Court; that the petitioner has no previous antecedents and there are several other arguable points in the appeal and the fact that the appeal is not likely to be taken up in the near future, this Court is inclined to grant the relief of suspension of sentence to the petitioner/A4.



8. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence imposed on the petitioner/A4 is suspended and the petitioner/A4 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/- with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri;
- (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 trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not 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.

12.11.2024

dk

Issue order copy by 14.11.2024
Upload the order copy forthwith.



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To

WEB COPY

1. The Sessions Judge, Fast Track Mahila Court, Krishnagiri,.
2. The The Inspector of Police,
SIPCOT Police Station,
Krishnagiri District – 635 126..
3. The Superintendent of Prisons,
Central Prison, Salem.
4. The Public Prosecutor,
Madras High Court.



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SUNDER MOHAN, J.

dk

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