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Crl.M.P.No.13317 of 2024 in Crl.R.C.No.1606 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.13317 of 2024

in

Crl.R.C.No.1606 of 2024

A.Sulaiman

... Petitioner/Accused

Vs.

State of Rep. by its

The Inspector of Police,

Kannankurichi Police Station,

Salem City.

(Cr.No.1097 of 2023)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 438 (1) of BNSS, to suspend the sentence imposed in Crl.A.No.11 of 2024 dated 29.04.2024 on the file of the learned Principal Sessions Judge, Salem by confirming the Judgment dated 01.12.2023 passed in C.C.No.1098 of 2023 by the learned Judicial Magistrate No.IV, Salem, till the disposal of above Criminal Revision Revision.

For Petitioner : Mr.L.Ramanathan

For Respondent : Mr.V.J.Priyadarsana
Government Advocate (Crl. Side)



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ORDER

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed on the petitioner/accused by judgment dated 01.12.2023 passed in C.C.No.1098 of 2023 by the learned Judicial Magistrate No.IV, Salem, confirmed by judgment dated 29.04.2024 in C.A.No.11 of 2024 by the learned Principal Sessions Judge, Salem, pending disposal of the Criminal Revision Case.

2.It is the case of the prosecution that on 09.08.2023 the defacto complainant had parked the gear bicycle of his daughter inside the compound of his house and on the next day, it was found missing; that during investigation, the petitioner was arrested and the stolen cycle was seized; and that a final report was filed.

3.The trial Court convicted the petitioner for the offence under Section 379 of the IPC and sentenced him to undergo rigorous imprisonment for two years. On appeal, the appellate Court had confirmed the above sentence.



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4.Heard Mr.L.Ramanathan, learned counsel for the petitioner and Mr.V.J.Priyadarsana, learned Government Advocate (Crl. Side) appearing for the respondent/State.

5.The learned counsel appearing for the petitioner would submit that the entire case rests on the alleged recovery of the cycle from the petitioner and the said recovery cannot be believed; and that all the witnesses are stock witnesses and there are no other witnesses to prove the case of the prosecution.

6.The learned Government Advocate (Crl. Side) *per contra* would submit that the petitioner is a habitual offender and apart from this case, there are 22 cases and on instructions would submit that the petitioner is on bail in the other 18 cases and that therefore, the petitioner has not made out a ground for suspension of sentence.

7. The learned counsel for the petitioner in response submitted that the petitioner has sought for suspension of sentence in remaining five cases including the present case.



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8. Considering the fact that the petitioner was remanded from 13.08.2023 to 19.01.2024 and is in custody from 26.07.2024, and therefore has served nearly half of the sentence and the fact that the petitioner has raised substantial grounds and there are arguable points in the revision, which 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.

9. Accordingly, this criminal miscellaneous petition stands allowed and the sentence imposed on the petitioner is suspended and the petitioner 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 Judicial Magistrate No.IV, 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



Crl.M.P.No.13317 of 2024 in Crl.R.C.No.1606 of 2024

respondent police twice a week i.e., on Tuesday and Thursday of every week at 5.00 p.m until further orders.

(iv) The petitioner shall appear before the trial Court on the first Monday of every month at 10.30 a.m until further orders 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.

28.11.2024

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Issue order copy by 03.12.2024

Upload the order copy forthwith.



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SUNDER MOHAN, J.

ars

To

1. The Principal Sessions Judge,
Salem.
2. The Judicial Magistrate No.IV,
Salem.
3. The Inspector of Police,
Kannankurichi Police Station,
Salem City.
4. The Superintendent of Prisons,
Salem.
5. The Public Prosecutor,
High Court, Madras.

Crl.M.P.No.13317 of 2024
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