



WEB COPY



Crl.M.P.No.14121 of 2024 in Crl.R.C.No.2183 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.14121 of 2024

in

Crl.R.C.No.2183 of 2023

M.Sendrayan

... Petitioner/A1

Vs.

The State Rep. by
Forest Range Officer,
Sirumugai forest Range,
Coimbatore District.
(WLOR No.10/2011)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 430(1) of BNSS, 2023, to suspend the sentence imposed on the petitioner in C.C.No.35 of 2013 by an order dated 12.03.2019 on the file of District Munsif cum Judicial Magistrate, Mettupalayam and confirmed in Criminal Appeal No.133 of 2019 on the file of the IV Additional District and Sessions Judge, Coimbatore by a judgment dated 05.11.2023 and release the petitioner on bail pending disposal of the above criminal revision.

For Petitioner : Mr.A.Ramaswamy
for Mr.K.Balasubramaniam

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



WEB COPY



Crl.M.P.No.14121 of 2024 in Crl.R.C.No.2183 of 2023



ORDER

WEB COPY

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed on the petitioner/A1 in C.C.No.35 of 2013 by an order dated 12.03.2019 on the file of District Munsif cum Judicial Magistrate, Mettupalayam and confirmed in Criminal Appeal No.133 of 2019 on the file of the IV Additional District and Sessions Judge, Coimbatore by a judgment dated 05.11.2023, pending disposal of the Criminal Revision Case.

2. It is the case of the prosecution that on 20.12.2011, at about 7.30 a.m, when the respondent and the other Forest Guards were on guard duty, they found the petitioner/A1 along with A2, pelting stones on the male elephant; that they apprehended the petitioner/A1 and A2; that on enquiry, they came to know that the petitioner/A1 along with three others were planning to kill the elephant and remove the tusks.

3. The petitioner/A1 was convicted and sentenced by the trial Court as follows:

Offence under Section	Sentence imposed
21(d) of Tamil Nadu Forest	To undergo RI for six months and to pay a fine of



Act	Rs.500/-, in default to undergo SI for one week.
9 r/w 51 of Wildlife Protection Act	To undergo imprisonment for three years and to pay a fine of Rs.10,000/-, in default to undergo SI for nine months.
The sentences are ordered to run concurrently.	

4. Heard Mr.A.Ramaswamy, learned counsel for the petitioner/A1 and Mr.V.J.Priyadarsana, learned Government Advocate (Crl. Side) appearing for the respondent/State.

5. The learned counsel appearing for the petitioner/A1 would submit that the case against him has been foisted; that he has raised substantial grounds in the above revision, which require consideration; that he had surrendered pursuant to the judgment of the appellate Court before the learned Judicial Magistrate, Mettur; that this Court has suspended the sentence imposed on A3 and A4 earlier; and that therefore, the sentence imposed on the petitioner/A1 may be suspended.

6. The learned Government Advocate (Crl.Side) *per contra* submitted that the prosecution had established the case against the petitioner/A1 and on instructions would submit that there is no previous



case against this petitioner/A1. He would further submit that the trial Court was right in convicting the petitioner and the petitioner has not made out any ground for suspension of sentence; and hence, prayed for dismissal of the petition.

7. (i) Having regard to the fact that there are arguable points in the above revision; that the sentence imposed on A3 and A4 was suspended by this Court and also considering the fact that this petitioner/A1 had surrendered before the trial Court and the revision is not likely to be taken up for hearing in the near future, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

8. Accordingly, this criminal miscellaneous petition stands **allowed**. The sentence imposed on the petitioner/A1 is suspended and the petitioner/A1 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 District Munsif – cum - Judicial Magistrate, Mettupalayam;

(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial



WEB COPY



Crl.M.P.No.14121 of 2024 in Crl.R.C.No.2183 of 2023

Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity;

(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 revision 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.

21.11.2024

ars

Issue order copy by 22.11.2024

Upload the order copy forthwith.



WEB COPY



Crl.M.P.No.14121 of 2024 in Crl.R.C.No.2183 of 2023

SUNDER MOHAN, J.

ars

To

1. The IV Additional District and Sessions Judge,
Coimbatore.
2. The District Munsif cum Judicial Magistrate,
Mettupalayam.
3. The Forest Range Officer,
Sirumugai forest Range,
Coimbatore District.
4. The Superintendent of Prisons,
Central Prison, Coimbatore
5. The Public Prosecutor
Madras High Court.

Crl.M.P.No.14121 of 2024
in Crl.R.C.No.2183 of 2023



WEB COPY



Crl.M.P.No.14121 of 2024 in Crl.R.C.No.2183 of 2023

21.11.2024