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Crl.M.P.No.16316 of 2024
in Crl.R.C.No.2010 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.16316 of 2024
in Crl.R.C.No.2010 of 2024

S.Saravanan.

..Petitioner/Petitioner

Vs

State rep. by
Inspector of Police,
Sembanarakoil Police Station,
Crime No.147 of 2014

...Respondent/Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 438(1) of BNSS Act, suspend the sentence and enlarge the petitioner on bail in respect of the Judgment passed by the learned District Judge, Mayiladuthurai, in Crl.A.No.36 of 2018 dated 06.04.2024 by confirming the order of the learned Judicial Magistrate No.2, Mayiladuthurai in CC No.74/2014 dated 11.04.2018 pending disposal of Criminal Revision.



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For Petitioner

Crl.M.P.No.16316 of 2024
in Crl.R.C.No.2010 of 2024



Mr.R.Shivakumar
for
K.M.Vijayan Associates

For Respondent (s) :

Mr.S.Udaya Kumar
Government Advocate (Crl.Side)

ORDER

These Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed on the petitioner/accused by Judgment dated 11.04.2018 passed in CC No.74/2014 by the learned Judicial Magistrate No.2, Mayiladuthurai and confirmed by the Judgment dated 06.04.2024 passed in Crl.A.No.No.36/2018 by the learned District Judge, Mayiladuthurai, and enlarge the petitioner on bail.

2. The case of the prosecution is that on 03.04.2014, the petitioner/accused, drove a lorry bearing Reg.No.TN 31 U 2358, on the Mayiladuthurai Poombuhar Main Road, Uppunagar, in a rash and negligent manner, lost his control and suddenly turned towards left side of the road and crashed into a tea stall, as a result of which, the deceased aged about 14 years who was in the tea stall, sustained fatal injuries.



3. The petitioner was convicted by the trial Court for the offence under Sections 427 and 304(A) of the IPC and sentenced to undergo six months of simple imprisonment for the offence under Section 427 of the IPC and one year of simple imprisonment for the offence under Section 304(A) of the IPC. On appeal, the said conviction and sentence was confirmed by the lower Appellate Court.

4. Mr.R.Shivakumar, the learned counsel for the petitioner/accused submitted that the prosecution had not established or ruled out the mechanical defect in the vehicle and produced the vehicle for inspection belatedly; that the evidence of eyewitnesses cannot be believed as P.W.7 had stated that he went to the occurrence place ten minutes after the occurrence; and that there are other arguable points in the above revision and the petitioner is in custody from 27.11.2024 and prayed for Suspension of Sentence.

5. Mr.S.Udaya Kumar, the learned Government Advocate (CrI.Side) for the respondent, submitted that the conviction is based on the evidence of eye-witnesses; and that there is no infirmity in the Judgments of the Courts below warranting interference in the revision.



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6. Heard both sides.

7. Considering the fact that the petitioner has raised substantial grounds, which requires consideration in the above revision and the fact that the petitioner is in custody from 27.11.2024, and the revision is not likely to be taken in the near future, this Court is inclined to grant the relief of suspension of sentence imposed on the petitioner till the disposal of the above Criminal Revision on the following conditions:

(a) The petitioner is ordered to be enlarged on bail, on condition that he 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 trial Court

(b) The petitioner shall appear before the Trial Court on the first working day of a 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 that 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.

(c) In the event of failure on satisfying the above conditions, this order would stand automatically cancelled.



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8. Accordingly, this Criminal Miscellaneous Petition is ordered.

17.12.2024
(2/3)

dk

To

1. The District Judge,
Mayiladuthurai,.
2. The Judicial Magistrate No.2,
Mayiladuthurai.
3. The Inspector of Police,
Sembanarakoil Police Station,



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SUNDER MOHAN, J.

dk

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(2/3)