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*Crl.M.P.No.16932 of 2024
in Crl.R.C.No.2134 of 2024*

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SUNDER MOHAN, J.

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence of imprisonment imposed in Judgment dated 29.11.2023 made in C.A.No.129 of 2023 on the file of the learned Principal Sessions Judge, Tirupur confirming the judgement dated 23.02.2023 made in C.C.No.177 of 2018 on the file of the Learned Judicial Magistrate No.1, Tiruppur and enlarge the petitioner on bail, pending disposal of the above revision.

2. It is the case of the prosecution that the petitioner, alongwith other accused went in a two-wheeler in order to commit robbery and that on 09.03.2018, the petitioner travelled as a pillion rider alongwith A.1 and is said to have snatched a mobile phone belonging to the defacto complainant who was walking on the road.

3. The learned counsel for the petitioner would submit that the petitioner was not identified; that though the petition to recall P.W.2 and P.W.3 was allowed, the prosecution did not produce P.W.2 and P.W.3 and



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therefore, the evidence of P.W.2 and P.W.3 has to be eschewed; that P.W.4 and P.W.5 are hearsay witnesses; and that there are no previous bad antecedents and this Court had suspended the sentence imposed on the co-accused on 30.10.2024 and prayed for suspension of sentence.

4. The learned Government Advocate (Crl.Side) for the respondent, *per contra*, submitted that when the *de-facto* complainant was talking on her mobile phone, the accused persons snatched her mobile phone and on hue and cry, the accused were apprehended and a case was registered under Section 392 of the Indian Penal Code and submitted that the evidence establishes the guilt of the petitioner. Hence, prays for dismissal.

5. This Court finds that the petitioner has raised substantial grounds in the above revision, which requires consideration. Further, the petitioner is in custody from 30.04.2024. That apart, the sentence imposed on the co-accused has been suspended by this Court by an order dated 30.10.2024 and this Court, while suspending the sentence of the co-accused, had observed as follows:



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Considering the submissions made and on perusal of the materials, the PW2 and PW3 who were projected as eye witnesses when summoned for cross examination, they were not available in the address and PW1 though had come for chief examination, the cross examination could not be conducted due to his sudden untimely death. The contention of the petitioner that PW2 and PW3 are the stock witnesses cannot be brushed aside and further the petitioner is in confinement for more than six months and has got no bad antecedents, this Court finds that the evidences against the petitioner/A1 needs reconsideration. Hence, this Court is inclined to suspend the sentence of Imprisonment till the disposal of the appeal.

6. Considering the above facts and since the observations of this Court, while granting suspension of sentence to the co-accused, would apply to the petitioner as well, this Court is inclined to suspend the sentence imposed on the petitioner by the trial court, subject to the following conditions, till the disposal of the above Criminal Revision :

(a) The petitioner is ordered to be enlarged on



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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.

7. Accordingly, this Criminal Miscellaneous Petition is ordered.

29.11.2024
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Issue order copy by 03.12.2024
Upload the order copy forthwith.



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To

1.The Principal Sessions Judge,
Tiruppur.

2.The Judicial Magistrate No.1,
Tiruppur.

3.The Superintendent
Central Prison,
Coimbatore.

4.The Public Prosecutor,
High Court, Madras.



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