



Crl.RC.No.2183 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 12.06.2024

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

Crl.MP.No.19703 of 2023

in

Crl.RC.No.2183 of 2023

1. B.Kubendiran

2. P.Singam

...Petitioners

Vs.

Forest Range Officer,
Sirumugai Forest Range,
Coimbatore District.
(in WLOR.No.10/2011)
...Respondent

Criminal Miscellaneous Petition filed under Section 397(1) & 439 of Cr.P.C. to enlarge the petitioners on bail convicted in CC.No.35 of 2013 on the file of Judicial Magistrate, Mettupalayam and judgment confirmed in CA.No.133 of 2019 dated 05.10.2023 pending disposal of the criminal revision petition.

For Petitioners : Ms.R.Angalaparameswari

For Respondent : Mr.A.Gopinath,
Government Advocate (Crl. Side)



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ORDER

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This Criminal Miscellaneous petition has been filed seeking to suspend the sentence of imprisonment imposed in CC.No.35 of 2013 dated 12.03.2019 on the file of Judicial Magistrate, Mettupalayam, which was confirmed by the learned Additional District Judge No.IV, Coimbatore in CA.No.133 of 2019 dated 05.10.2023 and enlarge the petitioners on bail.

2. The petitioners were convicted for the offence under Section 21(d) of Taimilnadu Forest Act and were sentenced to undergo 6 month of rigorous imprisonment and were ordered to pay a fine of Rs.500/- each and in default of payment of fine, to undergo simple imprisonment for another one week, and were also convicted for the offence under Section 9 r/w 51 of Wildlife Protection Act and were sentenced to undergo 3 years of imprisonment and were ordered to pay a fine of Rs.10,000/- each and in default of payment of fine, to undergo simple imprisonment for another 9 months, vide order dated 12.03.2019 made in CC.No.35 of 2013, which was confirmed by the appellant court in CA.No.133 of 2019 dated 05.10.2023.



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Aggrieved by the same, the above revision has been filed along with this petition seeking suspension of sentence.

3. Learned counsel for the petitioners submitted that, the petitioners are not habitual offenders and pursuant to the present complaint, various other false complaints have been registered against the petitioners by the law enforcing agency. He further submitted that, there are lot of material contradictions in the evidence of the prosecution and the prosecution evidence is also highly unbelievable and petitioners are now confined in Central Prison, Salem for about eight months.

4. Learned Government Advocate (Crl. Side) appearing for the respondent submitted that the petitioners are habitual offenders and are repeatedly indulging in similar offences and there are three previous case of similar nature against the petitioners. Hence, he vehemently opposed for granting bail in favour of the petitioners.



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5. Having regard to the fact that there are arguable points involved in the revision and further, the revision is not likely to be taken up for final hearing in the near future and also considering the period of incarceration, I am of the considered opinion that the petitioners are entitled for the relief of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioners are directed to be enlarged on bail, on condition that the petitioners shall appear and execute a bond for a sum of Rs.10,000/- each (Rupees Ten Thousand only), with two sureties each for a like sum to the satisfaction of the Judicial Magistrate, Mettupalayam, Coimbatore and on further condition that the petitioners shall appear before the trial Court twice in a week i.e., on Monday and Friday of every week, pending revision.

7. This criminal miscellaneous petition is ordered accordingly.

12.06.2024
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To
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1. The Judicial Magistrate,
Mettupalayam, Coimbatore.
2. The Forest Range Officer,
Sirumugai Forest Range,
Coimbatore District.
3. The Public Prosecutor,
High Court of Madras.
4. The Central Prison,
Salem.
5. The Additional District Judge No.IV,
Coimbatore.



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M.DHANDAPANI, J.

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M.DHANDAPANI, J.

Though the petitioners have come up with this petition seeking to exempt them from surrendering before the trial court against their conviction and sentence imposed in CC.No.35 of 2013 dated 12.03.2019 which was confirmed by the learned Additional District Judge No.IV, Coimbatore in CA.No.133 of 2019 dated 05.10.2023, however, without filing necessary petition seeking suspension of sentence, the prayer sought for by the petitioners in the present petition cannot be granted.

2. Accordingly, this criminal miscellaneous petition is dismissed.

12.06.2024
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