



CRL MP(MD) No.825 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Thirtieth day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.825 of 2024

in

CRL A(MD) No.1090 of 2023

JEYA KUMAR

... Petitioner / Appellant

Vs

THE INSPECTOR OF POLICE
KARUNKAL POLICE STATION,
KANYAKUMARI DISTRICT.
(CRIME NO.965/2001).

... Respondent / Respondent

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the petitioner on bail by suspending the sentence imposed upon the petitioner in Sessions Case No.104/2004 on the file of the learned Assistant Sessions Judge, Iranial, Kanyakumari District by judgment dated 23.02.2023 pending disposal of the main criminal appeal.

Prayer in CRL A(MD) No.1090 of 2023:

To call for the records in Sessions Case No.104 of 2004 on the file of the Learned Assistant Sessions Judge, Iranial, Kanyakumari District and set aside the judgment dated 23.02.2023 and acquit the appellant of the charges leveled against him.

Order : This criminal miscellaneous petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments



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of M/s.R.ILAYARAJA, Advocate for the petitioner and of Mr.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned Assistant Sessions Judge, Eraniel, Kanyakumari, in S.C.No.104 of 2004, dated 23.02.2023, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that there are two accused in this case. The petitioner is the first accused in this case. The defacto complainant/ Aanthonygildass was developing contacts with one Johnson. There was previous enmity between the said Johnson and the family of the accused. The accused had common intention to kill the defacto complainant and in furtherance of that intention on 11.09.2001 at about 8.45 a.m., when the defacto complainant was going to ITI along with associates, the accused on the way intercepted and attacked him with knife indiscriminately and caused grievous injuries and thereby the accused committed the offences under Sections 341, 326, 324 and 307 r/w 34 of IPC and FIR was registered in Crime No.965 of 2001 against him. P.W.6/Inspector of Police did investigation and charge sheet was laid. The petitioner/A1 and another accused were charged for the offences under sections stated above. After considering the evidences and arguments on both sides, the Trial Court has found the petitioner/A1



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and another accused guilty for the offence under Sections 341 and 307 r/w 34 of IPC and convicted and sentenced them to undergo simple imprisonment for a period of one month each and to pay a fine of Rs.100/- each, in default, to undergo simple imprisonment for a period of one week each for the offence under Section 341 of IPC and sentenced to undergo rigorous imprisonment for a period of 10 years each and to pay a fine of Rs.10,000/- each, in default, to undergo simple imprisonment for a period of one year each for the offence under Section 307 r/w 34 of IPC through the impugned judgment dated 23.02.2023. Challenging the above said conviction and sentence, the petitioner/Accused No.1 has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel appearing for the petitioner submits that originally, there were three accused in this case and the case against Accused No.3 was split up and he was acquitted. He submits that the statement of witnesses were sent to Court belatedly and that there are no independent witnesses examined by the prosecution to substantiate the case. The prosecution examined only interested witnesses. He further submits that the co-accused in this case has already been granted bail by this Court by an order dated 11.01.2024 made in CrI.M.P.(MD) No.10366 of 2023 in CrI.A.(MD) No.574 of 2023 and he has enclosed the copy of the same along with the affidavit of this petition and prayed for bail.



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4. Per contra, Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor submitted that there are enough materials available on record against the petitioner and hence, opposed for allowing the petition.

5. Heard the learned counsel on either side and perused the materials available on record.

6. Considering the above facts and circumstances of the case and also taking note of the fact that the co-accused was already granted bail, this Court is of the prima facie view that the sentence imposed on the petitioner is to be suspended pending this appeal.

7. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Assistant Sessions Judge, Eraniel, Kanyakumari, in S.C.No.104 of 2004, dated 23.02.2023 alone is suspended subject to the following conditions:

i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Assistant Sessions Judge, Eraniel, Kanyakumari;

ii) The sureties shall affix their photographs and Left Thumb

Impression in the surety bond and the trial Court may obtain a copy of



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their Aadhar card or Bank Pass Book to ensure their identity;

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iii) The petitioner shall appear and sign before the learned Assistant Sessions Judge, Eraniel, Kanyakumari, on the first working day of every English calender month at 10.30 a.m., until further orders;

iv) In case, if the petitioner is unable to appear before the Court on the first working day of a month, he shall appear on the next working day; and

v) The petitioner shall furnish his residential address and mobile number to the Trial Court i.e., learned Assistant Sessions Judge, Eraniel, Kanyakumari.

8. Subject to the above conditions, this Petition is allowed.

sd/-
30/01/2024

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/01/2024

Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

PKN

To

1.The Assistant Sessions Judge,
Eraniel, Kanyakumari.



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2.The Inspector of Police,
Karunkal Police Station,
Kanyakumari District.

3.The Superintendent,
Central Prison,
Palayamkottai.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.R.ILAYARAJA, Advocate (SR-1154[I] dated 30/01/2024)

ORDER
IN
CRL MP(MD) No.825 of 2024
in
CRL A(MD) No.1090 of 2023
Date :30/01/2024

ED/ /SAR- (31/01/2024) 6P / 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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