



CRL MP(MD) No.4563 of 2024

WEB COPY

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

Tuesday, the Nineteenth day of November Two Thousand and Twenty Four

PRESENT

The HONOURABLE MR. JUSTICE P. VADAMALAI

CRL MP(MD) No.4563 of 2024

in

CRL RC(MD)No.427 of 2024

SELVAM

... PETITIONER/PETITIONER

Vs

THE INSPECTOR OF POLICE
KADAMALAI KUNDU POLICE STATION,
THENI DISTRICT.
CRIME NO.237 OF 2015.

... 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 Suspend the Judgment and sentence passed by learned Additional District Judge, Additional District Court(FTC), Theni dt.24.11.2023 made in Crl.A.No.34 of 2023 by confirming the Judgment of made in SC.No.118 of 2016 dt.21.12.2022 and enlarge the petitioner on bail pending disposal of the main revision.

Prayer in CRL RC(MD). 427/ 2024 :

To call for the records of the Learned Additional District Judge, Additional District Court(FTC), Theni dt.24.11.2023 made in Crl.A.No.34 of 2023 and the Judgment made in SC.No.118 of 2016 dt.21.12.2022 on the file of the Learned Assistant Sessions Court, Theni, and to set aside the same by allowing this Criminal Revision Petition.



CRL MP(MD) No.4563 of 2024

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 of M/S.SENGUTTULARASAN P, Advocate for the petitioner and of Mr.M.VAIKKAM KARUNANITHI, Government Advocate on behalf of the Respondent while admitting the Criminal Revision Petition., the Court made the following order:-

This petition has been filed to suspend the sentence passed by the learned Additional District Judge, Additional District Court (FTC), Theni, dated 24.11.2023 made in Crl.A.No.34 of 2023 by confirming the judgment passed by the learned Assistant Sessions Judge, Theni made in S.C.No.118 of 2016, dated 21.12.2022 and enlarge the petitioner on bail pending disposal of the main revision.

2. The learned counsel for the petitioner submitted that a case has been registered against the petitioner in Crime No.237 of 2015 on the file of the respondent/Inspector of Police, Kadamalaikundu Police Station, Theni District for the offence punishable under Section 294(b), 341 and 307 of IPC and the same was taken on file in S.C.No.118 of 2016 before the learned Assistant Sessions Judge, Theni. The petitioner was convicted for the offence under Section 307 of IPC, and sentenced him to undergo rigorous imprisonment for a period of 7 years and to pay a fine of Rs.2,000/-, in default, to undergo rigorous imprisonment for a period of 6



CRL MP(MD) No.4563 of 2024

months and the petitioner found not guilty for the offence under Sections 341 and 294(b) of IPC.

3. Challenging the above said conviction and sentence, the petitioner has preferred the Criminal Appeal before the learned Additional District and Sessions Judge (FTC), Theni in CrI.A.No.34 of 2023 and the same was dismissed on 24.11.2023. Against which, the petitioner has preferred the present Criminal Revision Case before this Court and filed this petition for suspension of sentence.

4. The learned counsel for the petitioner further submitted that the petitioner was surrendered on 12.09.2024 and he has been in custody for the past two months and Accused No.2 was already released on bail by this Court in CrI.M.P(MD) No.1602 of 2024 vide order dated 20.02.2024. He would further submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

5. Per contra, the learned Government Advocate (CrI.side) appearing for the respondent conceded that the petitioner surrendered on 12.09.2024 and he raised a formal objection to allow this petition.



CRL MP(MD) No.4563 of 2024

WEB COPY

6. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

7. The learned counsel for the petitioner pointed out there are certain infirmities and inconsistencies present in this case, and also there are certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal revision and further, the criminal revision is not likely to be taken up for final hearing in the near future, and considering the period of incarceration, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

8. Accordingly, the suspension of sentence petition is allowed and the sentence of the imprisonment alone is suspended pending disposal of the revision on 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 Judicial Magistrate, Andipatti;

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and



CRL MP(MD) No.4563 of 2024

WEB COPY

(iii) The petitioner shall appear before the Judicial Magistrate Court, Andipatti once in a month i.e., on the first working day of every English Calendar month at 10.30 a.m. until further orders.

sd/-
19/11/2024

/ TRUE COPY /

/11/2024

Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSD
TO

- 1 THE ADDITIONAL DISTRICT JUDGE,
ADDITIONAL DISTRICT COURT(FTC), THENI.
- 2 THE ASSISTANT SESSIONS JUDGE,
THENI.
- 3 THE INSPECTOR OF POLICE
KADAMALAI KUNDU POLICE STATION,
THENI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

Copy to:

- 1 THE JUDICIAL MAGISTRATE, ANDIPATTI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, THENI DISTRICT.



CRL MP(MD) No.4563 of 2024

3 THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.4563 of 2024
in
CRL RC(MD)No.427 of 2024
Date :19/11/2024

SS/VR/SAR- /19/11/2024/ 6P/8C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023