



Crl.M.P.(MD) No.7310 of 2023

WEB COPY

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

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

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

Crl.M.P.(MD) No.7310 of 2023  
in  
Crl.RC (MD) No.499 of 2023

ESAAC

... PETITIONER/REVISION PETITIONER

Vs

1 THE INSPECTOR OF POLICE  
MANOOR POLICE STATION,  
CRIME NO.16/2014,  
TIRUNELVELI DISTRICT.

...RESPONDENT/REVISION RESPONDENT

2 THE SUPERINTENDENT OF PRISON  
CENTRAL PRISON,PALAYAMKOTTAI.

...2ND RESPONDENT

(R2 IS SUO-MOTU IMPLEADED AS PER ORDER  
OF THE COURT DT 11/09/2023 IN CRL.MP(MD)  
7310 OF 2023 IN CRL.RC.(MD)499 OF 2023 BY  
K.K.R.K.J)

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 sentence by granting bail in the order passed by the Honble IV Additional District

<https://www.mhc.tn.gov.in/judis>



Crl.M.P.(MD) No.7310 of 2023

and Sessions Judge, Tirunelveli District in his CA.No.28/2021 dt.22/2/2023 in confirming the judgement of the learned JM V, Tirunelveli in CC No.363/2017 dated 17.02.2021 till the disposal of the criminal revision.

Prayer in CRL RC(MD). 499/ 2023 :

To call for the records from the lower court and duly set aside the order passed by the Honble IV Additional Sessions Judge, Tirunelveli, Tirunelveli District in his CA.No.28/2021 dt.22/2/2023 in confirming the judgement of the Judicial Magistrate No.V, Tirunelveli, Tirunelveli District in C.C.No.363 of 2017 dated 17.02.2021 by allowing this revision.

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 MR.V.KATHIRVELU, Senior Counsel for M/S.PRABHU K, Advocate for the petitioner and of MR.R.SIVAKUMAR, Government Advocate(Crl.side) on behalf of the Respondents the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in Crl.A.No.28 of 2021, dated 22.02.2023, on the file of the learned IV Additional District and Sessions Judge, Tirunelveli District and to enlarge the petitioner on bail, till the disposal of this Criminal Revision.



Crl.M.P.(MD) No.7310 of 2023

WEB COPY

2. The case of the prosecution is that on 18.01.2014, at about 09:00 hours, the petitioner/accused broke open the door and unlawfully entered into the house of the defacto complainant (P.W.1) and committed the theft of jewels worth about Rs.20,000/-. Based on the complaint of P.W.1, a case has been registered in Crime No. 16 of 2014 for the offences punishable under Sections 454 and 380 of IPC and the same was taken on file before the learned Judicial Magistrate No.V, Tirunelveli. The petitioner was convicted and sentenced to undergo 1 year S.I and to pay a fine of Rs.1,000/- with conditional clause for the offence under Section 454 of IPC and to undergo 2 years S.I and to pay a fine of Rs.2,000/- with conditional clause for the offence under Section 380 of IPC. The petitioner has preferred an appeal before the learned IV Additional District and Sessions Judge, Tirunelveli District. The appellate Court has also confirmed the order of the trial Court. Aggrieved against the same, the petitioner has filed the present revision along with the suspension of sentence petition.

3. The learned counsel for the petitioner submitted that the alleged occurrence took place on 18.01.2014, however, the mahazar and rough sketch have reached the Court only on 21.12.2017, which creates a doubt qua the case of the prosecution.

Though it is alleged that the recovery has been made from the side box of the



Crl.M.P.(MD) No.7310 of 2023

petitioner's motor cycle, the Court below has failed to appreciate the fact that the said motorcycle was well available with the custody of the respondent Police ten days prior to recovery. The petitioner was taken into custody and the confession was recorded in the presence of P.W.10 and one Samy and during the course of enquiry, the confession witness/P.W.10 turned hostile and another witness namely Samy is not at all available in the Village. Learned counsel further submitted he is having a good case to succeed in the main revision and thereby, he prayed for bail.

4. Per contra, learned Government Advocate (Crl. Side) submitted that both the Courts below have meticulously and concurrently found that the accused is guilty for the offence charged and hence, he opposed to grant the suspension of sentence.

5. Heard the learned counsel for the petitioner as well as the learned Government Advocate (Crl. Side) appearing for the respondent and perused the materials available on record.

6. Considering the limited period of sentence and the facts and circumstance of the case, this Court is of the prima facie view that the sentence imposed on the petitioner is to be suspended pending this Revision.



**Crl.M.P.(MD) No.7310 of 2023**

WEB COPY

7. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned IV Additional District and Sessions Judge, Tirunelveli District, in Crl.A.No.28 of 2021 dated 22.02.2023 alone is suspended, subject to the following conditions:-

i) 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 No.V, Tirunelveli;

ii) The petitioner shall appear and sign before the learned Judicial Magistrate No.V, Tirunelveli, on the first working day of every English calendar month at 10.30 a.m., until further orders.

iii) 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.

iv) The petitioner shall furnish his residential address and mobile



Crl.M.P.(MD) No.7310 of 2023

number to the trial Court i.e., the learned Judicial Magistrate No.V,  
Tirunelveli.

WEB COPY

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

sd/-  
19/03/2024

/ TRUE COPY /

/03/2024  
Sub-Assistant Registrar (CS -I/ II / III / IV )  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

pnk

TO

- 1.THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE,  
TIRUNELVELI DISTRICT,
- 2.THE JUDICIAL MAGISTRATE NO.V, TIRUNELVELI,
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,  
TIRUNELVELI.
- 4 THE INSPECTOR OF POLICE  
MANOOR POLICE STATION,  
TIRUNELVELI DISTRICT.
- 5 THE SUPERINTENDENT OF PRISON  
CENTRAL PRISON,PALAYAMKOTTAI.



Crl.M.P.(MD) No.7310 of 2023

6 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.K.JEYAMOHAN, Advocate ( SR-3444[I] dated 20/03/2024 )

ORDER  
IN  
Crl.M.P.(MD) No.7310 of 2023  
in  
Crl.RC (MD) No.499 of 2023  
Date :19/03/2024

RK/VR (26/03/2024) 7P / 8C

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