



CRL MP(MD) No.11033 of 2023

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

Wednesday, the Tenth day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mrs.Justice J.NISHA BANU
and
The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

CRL MP(MD) No.11033 of 2023
IN
CRL A(MD) No.624 of 2023

SUBBURAJ @ SUBBARAJ

... Appellant / Accused No.2

Vs

THE INSPECTOR OF POLICE
SOOLAKKARAI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
CRIME NO.323/2016.

... Respondent / Complainant

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 passed in SC No.190/2017 dated 02.06.2023 on the file of Additional District and Session Judge, Virudhunagar and enlarge the petitioner / Accused No.2 on bail pending disposal of the above appeal.

Prayer in CRL A(MD) No.624 of 2023:

To call for records relating to the impugned judgment of conviction passed by the learned Additional District and Sessions Judge, Virudhunagar in S.C.No.190 of 2017 dated 02.06.2023 and set aside the same and to acquit the appellant / accused no.`1 from the charges framed against her.

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. MOHIDEEN BASHA.N, Advocate for the petitioner and of Mr.S.RAVI, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the sentence passed in S.C.No.190 of 2017 dated 02.06.2023 on the file of the Additional District and Sessions Judge, Virudhunagar and enlarge the petitioner/A2 on bail pending disposal of the above appeal.

2. The petitioner is A2 in the aforesaid case and he has been convicted under Section 324 IPC and sentenced to undergo 2 years rigorous imprisonment and Section 302 IPC and sentenced to undergo life imprisonment with a fine of Rs.50,000/-. In default to pay fine, the petitioner has to undergo one year rigorous imprisonment. As against the said conviction and sentence, the petitioner has filed the above criminal appeal.

3. Today, learned counsel for the petitioner/A2 submits that the petitioner is suffering from cancer and a Division Bench of this Court by order dated 22.06.2023 in W.P(MD)No.14649 of 2023 has already permitted the petitioner to take treatment in private hospital. Thus, he submits that taking into account the medical condition of the petitioner and the treatment to be taken by him, the sentence imposed on the petitioner may be suspended.

4. Learned Additional Public Prosecutor appearing for the respondent State



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objected to the prayer for suspension of sentence and submitted that the 2nd accused is the brother of the 3rd accused who is the wife of the 1st accused. The 1st accused is the son of the injured Alagarsamy and Babiyammal. Accused 1 to 3 armed with deadly weapons attacked the said Alagarsamy and his wife Babiyammal. While it was questioned by one Balaji, they committed murder of the said Balaji. Therefore, this Court should not entertain the prayer for suspension of sentence. Even if this Court considers for suspension of sentence on the ground of the medical condition of the petitioner, some stringent conditions may be imposed.

5. Perusal of the order passed in W.P(MD)No.14649 of 2023 dated 22.06.2023 shows that going through the medical records submitted by the petitioner as well as the prison authorities, the Division Bench issued a direction that whenever medical attention is required, after evaluating the same by the Prison Medical Officer, Central Jail, Madurai, the convict/petitioner herein can be referred to the private hospital at his choice and after treatment, he has to be brought to the jail. The cancer disease of the prison inmate and the treatment required to be taken by him are undisputed. Therefore, considering the age of the petitioner namely, 65 years and the fact that he has to take treatment in a private hospital for his ailment and also the submission of the counsel for petitioner that the petitioner will not be within the vicinity of the complainant, we are inclined to suspend the sentence of



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the petitioner pending disposal of this appeal subject to the following conditions:

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(i) The petitioner/ A2 shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each of whom one should be a blood relative each for a like sum to the satisfaction of the learned Additional District and Sessions Court, Virudhunagar;

(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;

(iii) The petitioner/ A2 shall appear before the trial Court on the first working day of every month at 10.30 a.m., until the disposal of this appeal.

6. This order is passed only taking into consideration the medical condition of the petitioner/ A2 and this order cannot be taken advantage of by other accused and their case for suspension of sentence will be considered purely on merits.

7. This Criminal Miscellaneous Petition is allowed accordingly.

sd/-
10/01/2024

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10/01/2024
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

BALA



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To

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1.The Additional District and Sessions Judge,
Virudhunagar.

2.The Inspector of Police,
Soolakkarai Police Station,
Virudhunagar District.

3.The Superintendent,
Central Prison, Madurai.

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

+2 CC to M/s.N.MOHIDEEN BASHA, Advocate (SR-489[I] dated 10/01/2024)

ORDER

IN

CRL MP(MD) No.11033 of 2023

IN

CRL A(MD) No.624 of 2023

Date :10/01/2024

ED/ /SAR- (10/01/2024) 5P / 7C

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