



CRL MP(MD) No.12953 of 2024

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

Friday, the Twentieth day of December Two Thousand and Twenty Four

PRESENT

The HONOURABLE MR. JUSTICE P. VADAMALAI

CRL MP(MD) No.12953 of 2024
in
CRL RC(MD)No.1263 of 2024

K.DHANASEKARAN

... PETITIONER/PETITIONER

Vs

THE STATE OF TAMILNADU
REP BY THE INSPECTOR OF POLICE,
SOUTH POLICE STATION,
THANJAVUR.

... 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 which was confirmed judgment in Criminal Appeal No.85 of 2022 dated 03.02.2023 on the file of the Principal Sessions Judge, Thanjavur which is confirmed by the Judgment of the Judgment of the Learned Judicial Magistrate No.1, Thanjavur in C.C.No.125/2018, dated 29.09.2022 pending disposal of the above Criminal Revision.

Prayer in CRL RC(MD). 1263/ 2024 :

To call for the records in the Judgment in Criminal Appeal No.85/2022, dated 03.02.2023 on the file of the Principal Sessions Judge, Thanjavur which is confirmed by the Judgment of the Learned Judicial Magistrate Court No.1,Thanjavur in C.C.No.125/2018, dated 29.09.2022 and convicting the petitioner herein for offence under section 379 of IPC and set aside the same.



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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.S.ALAGUSUNDAR, Advocate for the petitioner and of Mr.RM.ANBUNITHI, Additional Public Prosecutor on behalf of the Respondent while admitting the Criminal Revision Petition., the Court made the following order:-

Reserved on : 09.12.2024

Pronounced on: 20.12.2024

The petitioner has filed this petition to enlarge him on bail by suspending the sentence imposed on him in conviction judgment, dated 29.09.2022 made in C.C.No.125 of 2018 on the file of the learned Judicial Magistrate No.1, Thanjavur, confirmed by the learned Principal Sessions Judge, Thanjavur in Crl.A.No.85 of 2022, dated 03.02.2023, till the disposal of this Criminal Revision Case.

2.The brief facts of the prosecution case:

The petitioner is Accused No.2 in C.C.No.125 of 2018 on the file of the Judicial Magistrate Court No.I, Thanjavur. He was found guilty of charges U/s.379 of IPC convicted and sentenced to undergo simple imprisonment for a period of one year as per judgment, dated 29.09.2022. Aggrieved by the conviction judgment, the petitioner has preferred the appeal in Crl.A.No.85 of 2022 before the Principal Sessions Court, Thanjavur and the said Crl.A.No.85 of 2022 was dismissed on



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03.02.2023 by confirming the conviction judgment. Challenging the judgment passed in CrI.A.No.85 of 2022, the petitioner has preferred the main Criminal Revision before this Court. Along with the criminal revision, the petitioner has filed this petition seeking for suspension of sentence and for bail till the disposal of the criminal revision.

3. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and perused the records in this petition.

4. The learned counsel for the petitioner has submitted that the Courts below failed to consider the evidence of prosecution witnesses, which differ on several material aspects. Their evidences are uncorroborated. The alleged stolen property was not recovered and produced before the trial Court. The prosecution did not adduce proper evidence to link the petitioner with the crime. The prosecution examined 6 witnesses, among them except the Investigating Officer, other witnesses are close relatives. Moreover, P.W.5 turned hostile. There are so many material contradictions in the evidence of prosecution witnesses. Both the Courts below failed to appreciate the contradictions. The petitioner has a fair chance of success in



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this criminal revision. Therefore, the judgment of the Courts below may be suspended till the disposal of the Criminal Revision and the petitioner may be released on bail.

5. Per contra, the learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner is Accused No.2 in this case. Accused Nos.1 and 2 committed theft of the bike of the defacto complainant and both were caught red handed with bike. The property was recovered and marked as M.O.1 before the trial Court. After trial, the trial Court convicted both the accused and sentenced them to undergo simple imprisonment for a period of one year. Accused No.1 has undergone the sentence and then he was released. But, after dismissal of the Criminal Appeal, the petitioner was absconding and only after 20 months, he was secured on execution of NBW. The Courts below have correctly appreciated the evidence and correctly passed the judgment convicting the accused as stated therein. Therefore, he strongly opposed to grant suspension of sentence and bail.

6. On hearing both side rival arguments and on perusal of records, it is clear that the petitioner was convicted and sentenced to undergo simple imprisonment for a period of one year U/s.379 of IPC as stated supra. On perusal of records, it is the



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prosecution case that the petitioner and Accused No.1 were caught redhanded at the time of the commission of offence. Accused No.1 has completely undergone the sentence of one year and he was released and there is no dispute in it. The petitioner was on bail during the appeal before the first Appellate Court and after dismissal of the first appeal on 03.02.2023, the petitioner has not surrendered before the Court in obeying the bail conditions. The petitioner was arrested on execution of NBW after lapse of 20 months after dismissal of the Criminal Appeal and he was remanded to custody on 21.09.2024. The contradictions alleged by the petitioner's side could not be decided in this petition and they have to be dealt with in the criminal revision. Therefore, considering the above facts and circumstances and also considering the acts of the petitioner, this Court is not inclined to consider the relief of suspension of sentence sought in this petition.

7. In the result, this Criminal Miscellaneous Petition is dismissed.

sd/-
20/12/2024

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/01/2025

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

VSD
TO
1 THE PRINCIPAL SESSIONS JUDGE,
THANJAVUR.



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2 THE JUDICIAL MAGISTRATE NO.1
THANJAVUR.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
THANJAVUR DISTRICT AT KUMBAKONAM.

4 THE INSPECTOR OF POLICE,
SOUTH POLICE STATION,
THANJAVUR.

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

COPY TO:
THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.12953 of 2024
in
CRL RC(MD)No.1263 of 2024
Date :20/12/2024

SS/GSV/SAR- /02/01/2025/ 6P/7C

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