



CRL MP(MD) No.18267 of 2023

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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.M.P(MD).No.18267 of 2023

in

CRL.R.C(MD)No.1449 of 2023

BASKAR

... PETITIONER/PETITIONER

Vs

THE INSPECTOR OF POLICE
AMBASAMUDRAM POLICE STATION,
AMBASAMUDRAM,
TIRUNELVELI DISTRICT.

... 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 Sentence imposed against the petitioner in C.A.No.96 of 2019 dt.14.08.2023 on the file of the 3rd Additional District and Sessions Court, Tirunelveli confirming the Judgment and sentence passed in S.C.No.460/2016 dt.21.08.2019 on the file of Assistant Sessions Judge, Ambsamudram and enlarge the petitioner on bail pending disposal of above Criminal Revision Petition.

Prayer in CRL RC(MD). 1449/ 2023 :

To call for records and set aside the Judgment passed in C.A.No.96 of 2019 dt.14.08.2023 on the file of the 3rd Additional District and Sessions Court, Tirunelveli confirming the judgment and sentence passed in S.C.No.460/2016 dt.21.08.2019 on the file of Assistant Sessions Judge, Ambsamudram by allowing this criminal revision petition.

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



CRL MP(MD) No.18267 of 2023

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.S.KISHOK KUMAR, Advocate for the petitioner and of Mr.R.SIVAKUMAR, Government Advocate(crl.side) on behalf of the Respondent, the court made the following order:-

Reserved on : 12.12.2024

Pronounced on : 20.12.2024

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed against the petitioner in C.A.No.96 of 2019, dated 14.08.2023 on the file of the learned III Additional District and Sessions Judge, Tirunelveli, confirming the judgment and sentence passed in S.C.No.460 of 2016, dated 21.08.2019 on the file of the learned Assistant Sessions Judge, Ambasamudram and enlarge the petitioner on bail pending disposal of the Criminal Revision Case.

2. The brief facts of the prosecution case :

The petitioner/Accused No.1 and co-accused/Accused No.2 were charged for the offence under Section 397 of IPC alleging that on 25.03.2016 at about 7.00 a.m., the petitioner/Accused No.1 and Accused No.2 had armed with a sickle, and had waylaid and robbed 50 gram gold chain from P.W.1/Chellapandi at occurrence place. The case was conducted before the learned Assistant Sessions Judge, Ambasamudram and after hearing both, the petitioner/Accused No.1 was found guilty of the charge, and convicted and sentenced him to undergo rigorous



CRL MP(MD) No.18267 of 2023

WEB COPY

imprisonment for a period of 7 years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of six months for the offence under Section 397 of IPC by way of a judgment dated 21.08.2019. The petitioner/Accused No.1 preferred an appeal in C.A.No.96 of 2019 before the III Additional District and Sessions Court, Tirunelveli, and the said appeal was dismissed on 14.08.2023, confirming the conviction and sentence of the trial Court.

3. Being dissatisfied with the said conviction and sentence, the petitioner/Accused No.1 has preferred the present Criminal Revision Case before this Court. Along with the revision, the petitioner/Accused No.1 has filed this petition seeking for suspension of sentence and for bail pending disposal of the criminal revision.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent.

5. The learned counsel for the petitioner/Accused No.1 has submitted that the petitioner/Accused No.1 has been falsely implicated in this case. The alleged deadly weapon was not marked by the prosecution. P.W.1 was called two times for identification parade. On 25.04.2016, P.W.1 identified the 1st accused/Baskar, and on 27.05.2016, P.W.1 identified the petitioner/A2. As per the evidence of P.W.1, after the arrest of the accused, they were shown to witnesses and subsequently, identification



CRL MP(MD) No.18267 of 2023

WEB COPY

parade was conducted. It is invalid in the eye of law as per the decision reported in 2023 Live Law (SC) 617. There is no corroboration among the evidence of prosecution witnesses. Since the petitioner was implicated as an accused in some cases previously, the petitioner was also arrayed as an accused in the present case. The petitioner is the only breadwinner of his family, and is in custody for nearly 461 days. The petitioner has a fair chance to succeed in this revision. Further, the co-accused/Accused No.2 was already released on bail by suspending the sentence as per the order of this Court, dated 18.11.2024 passed in CrI.M.P(MD)No.2838 of 2024 in CrI.R.C(MD) No.1230 of 2023. Therefore, the learned counsel for the petitioner prays for suspension of sentence and bail for the petitioner.

6. Per contra, the learned Government Advocate (Criminal Side) for the respondent submitted that P.W.1 to P.W.3, who are the ocular witnesses, clearly deposed that the petitioner/Accused No.1 along with Accused No.2 came in two wheeler by asking an address and robbed 50 gram gold chain from P.W.1 by showing “aruval” during day time. The petitioner is a habitual offender, and is having twelve previous cases. The gravity of offence committed by the petitioner has to be looked in this case. Hence, he strongly opposed to grant suspension of sentence and bail to the petitioner.

7. On hearing the rival arguments on both the sides, and on perusal of the



CRL MP(MD) No.18267 of 2023

WEB COPY

records, it is clear that the petitioner was convicted and sentenced to imprisonment as stated supra. During the course of argument, the learned counsel for the petitioner has drawn the attention of the Court to certain grounds of defence, mainly, that the accused were shown to witnesses after arrest, then only the identification parade was conducted, which is an invalid one. Further, the learned counsel for the petitioner contended that there are certain infirmities and inconsistencies in this case, and also there are certain contradictions in material particulars.

8. Considering the fact 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 suffered by the petitioner and the co-accused has already been released on bail by suspending the sentence, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

9. Accordingly, this petition is allowed, and the substantive sentence of imprisonment alone is suspended pending disposal of the revision with the following directions :

- (i) The petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a



CRL MP(MD) No.18267 of 2023

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like sum to the satisfaction of the learned Assistant Sessions Judge,
Ambasamudram.

(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

(iii) The petitioner shall appear before the trial Court once in a
week i.e., on every Monday at 10.30 a.m., until further orders.

sd/-
20/12/2024

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20/12/2024
Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSD
TO

1 THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TIRUNELVELI.

2 THE ASSISTANT SESSIONS JUDGE,
AMBASAMUDRAM.

3 THE OFFICER INCHARGE,
SUB JAIL, POONAMALLEE.

4 THE INSPECTOR OF POLICE
AMBASAMUDRAM POLICE STATION,
AMBASAMUDRAM,



CRL MP(MD) No.18267 of 2023

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

+1 CC to M/s.V.S.KISHOK KUMAR, Advocate (SR-15713[I] dated 20/12/2024)

ORDER
IN
CRL.M.P(MD).No.18267 of 2023
in
CRL.R.C(MD)No.1449 of 2023
Date :20/12/2024

SA/SAR. /20.12.2024/7P/7C

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