



CRL MP(MD) No.18102 of 2023

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

Friday, the Twenty Third day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.18102 of 2023

in

CRL RC(MD)No. 50 of 2023

SORNAPANDI

... PETITIONER/PETITIONER

Vs

**THE INSPECTOR OF POLICE
PERUMALPURAM POLICE STATION,
TIRUNELVELI DISTRICT.
CRIME NO.960/2005.**

... 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 Crl A No.58/2017 dt.09.12.2022 on the file the learned IIIrd Addl Sessions Court, Tirunelveli District in SC No.317/2008 dt.24.08.2017 on the file of the Learned Principal Assistant Sessions court, Tirunelveli District and enlarge the petitioner on bail pending disposal of Criminal Revision Petition.

Prayer in CRL RC(MD). 50/ 2023 :

To call for the records from the lower court and duly set aside the judgment passed by the learned III Additional Sessions Court, Tirunelveli District in Crl.A.No.58 of 2017 dated 09.12.2022 in S.C.No.317 of 2008 dated 24.08.2017 on the file of the Learned Principal Assistant Sessions Court, Tirunelveli District and duly 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 M/S.MAHESWARAN.R, Advocate for the petitioner and of MR.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence passed against him by the learned III Additional Sessions Judge, Tirunelveli District, in CrI.A.No.58 of 2017 dated 09.12.2022 and to enlarge him on bail, pending disposal of the Criminal Appeal.

2. This is the third application filed by the petitioner and in the last instance, this Court vide its order dated 31.01.2023, dismissed the petition filed by him seeking suspension of sentence.

3. The petitioner herein is arrayed as Accused No.1 in this case. The trial court, after concluding the trial process had convicted the accused persons and sentenced to undergo simple imprisonment for a period of one month for the offence under section 448 of IPC and to undergo five years rigorous imprisonment and also imposed a fine of Rs.1,000/- with default clause for the offence under section 394 IPC. Against which, appeal has been preferred before the learned III Additional Sessions Judge, Tirunelveli District, in CrI.A No.58 of 2017 and it has modified the conviction from 5 years to 3 years for the offence under section 394 IPC. Against which this revision has



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been filed. Pending revision, this miscellaneous petition has been filed seeking suspension of sentence.

4. Learned counsel for the petitioner submitted that petitioner has already undergone more than half of the sentence imposed on him. He has been incarcerated for more than 2 ½ years. Even according to the prosecution, the alleged incident occurred on 23.09.2005, however, the respondent police apprehended A2 in the Bus stand only on 23.12.2006 and based on his confession, the petitioner/A1 was roped into this case. Learned counsel for the petitioner further submitted that there are some arguable points involved in the criminal appeal and hence, he prays for suspension of sentence of the petitioner.

5. The learned Additional Public Prosecutor appearing on behalf of the respondent vehemently opposes the bail application and submits that P.W.1 has clearly identified the accused during the identification parade conducted on 08.01.2007 and that the prosecution witnesses are corroborated and established the factum of the incident beyond reasonable doubts. Furthermore, the petitioner/A1 has four previous cases and hence, prays to dismiss the petition.

6. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State and perused the materials

available on record.

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7. Considering the arguable points involved in the appeal and the facts and circumstances of the case, this Court is of the prima facie view that the sentence imposed on the petitioner is to be suspended pending this appeal.

8. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned III Additional Sessions Judge, Tirunelveli District, in Crl.A.No.58 of 2017 dated 09.12.2022 alone is suspended, subject to the following stringent conditions:-

i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two blood sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Tirunelveli District;

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 shall appear before the concerned Court daily at 10.30 a.m. and 5.30 p.m., till the disposal of the appeal.

iv) The petitioner shall furnish his residential address and mobile number to the concerned Court ie., learned Judicial Magistrate No.I, Tirunelveli District.



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

sd/-
23/02/2024

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27/02/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PKN
TO

- 1 THE III ADDITIONAL SESSIONS JUDGE, TIRUNELVELI DISTRICT.
- 2 THE PRINCIPAL ASSISTANT
SESSIONS JUDGE, TIRUNELVELI DISTRICT.
- 3 THE INSPECTOR OF POLICE
PERUMALPURAM POLICE STATION,
TIRUNELVELI DISTRICT.
- 4 THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

- 1 THE JUDICIAL MAGISTRATE NO.I
TIRUNELVELI DISTRICT.



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2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

+1 CC to M/s.R.MAHESWARAN, Advocate (SR-2355[I] dated 26/02/2024)

ORDER
IN
CRL MP(MD) No.18102 of 2023
in
CRL RC(MD)No. 50 of 2023
Date :23/02/2024

PKP/27.02.2024/ 6P/ 9C

Madurai Bench of Madras High Court is issuing certified
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