



Crl.M.P.(MD) No.18191 of 2023

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

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

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

Crl.M.P.(MD) No.18191 of 2023

in

Crl.A(MD) No.1125 of 2023

KUMARESAN @ KUMARAN

... APPELLANT/SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
JEYAMANGALAM POLICE STATION,
THENI DISTRICT.
(CRIME NO.121/2019).

... RESPONDENT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to pass an order suspending the sentence imposed on the appellant by the Honble Addl. District Sessions Judge, Mahalir Neethimandram (FTC), Theni, dt.17/11/2023 made in SC No.140/2019 and enlarge the petitioner on bail pending disposal of the Crl.A.

PRAYER Crl.A(MD) No.1125 of 2023:

To call for the records and allow the appeal and acquit th appellant by setting aside the conviction and sentence imposed on him by the judgment dated dated 17.11.2023 made in S.C.No.140 of 2019 on the file of the Additional District Sessions Judge, Mahalir Neethi Mandram(FTC), Theni.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.B.JEYAKUMAR, Advocate for the petitioner and of MR.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-



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The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence imposed on him by the learned Additional District and Sessions Judge, Mahalir Neethi Mandram (FTC), Theni, in S.C.No.140 of 2019 dated 17.11.2023 and to enlarge him on bail, pending disposal of the Criminal Appeal.

2. It is submitted by the learned counsel for the petitioner that a case has been registered against the petitioner in Crime No.121 of 2019 on the file of the respondent/Inspector of Police, Jeyamangalam Police Station, Theni District, for the offences punishable under Sections 294(b), 323, 324, 506(ii) of IPC read with Section 4 of TNPHW Act, and the same was taken on file in S.C.No.140 of 2019 before the learned Additional District and Sessions Judge, Mahalir Neethi Mandram (FTC), Theni. The petitioner was convicted and sentenced to undergo 10 years rigorous imprisonment and a fine of Rs.2,000/- with six months simple imprisonment in case of default for the offence under Section 307 of IPC. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel for the petitioner submitted that the petitioner is the sole

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bread winner of the family and there are no evidences to prove the case of the prosecution against the petitioner for the commission of offence under Section 307 of IPC. The prosecution failed to prove the allegation levelled against him and corroborate the evidence of prosecution witnesses and the petitioner has been in incarceration from 17.11.2023 and accordingly, learned counsel prays for suspension of sentence.

4. Per contra, Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor submitted that the petitioner is the sole accused in this case and has voluntarily caused grievous injury to the victim and the victim clearly deposed in her evidence about the incident. Apart from that, the petitioner is having another criminal case in Crime No.123 of 2019 and hence, he strongly opposed to grant suspension of sentence to the petitioner.

5. Heard the learned counsel on either side and perused the materials available on record.

6. Considering the arguable points of the petitioner and the facts and circumstances of the case, this Court is of the prima facie view that the sentence is to



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be suspended pending this Criminal Appeal.

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7. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Additional District and Sessions Judge, Mahalir Neethi Mandram (FTC), Theni, in S.C.No.140 of 2019 dated 17.11.2023 alone is suspended, subject to the following conditions:-

i) The 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 Additional District and Sessions Judge, Mahalir Neethi Mandram (FTC), Theni.

ii) The petitioner shall appear and sign before the learned Additional District and Sessions Judge, Mahalir Neethi Mandram (FTC), Theni, on the first working day of every English calender 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 number to the Trial Court ie., learned Additional District and Sessions Judge, Mahalir Neethi Mandram (FTC), Theni.



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

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sd/-
24/01/2024

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24/01/2024

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

rm

TO

1.THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
MAHALIR NEETHI MANDRAM (FTC), THENI.

2.THE INSPECTOR OF POLICE
JEYAMANGALAM POLICE STATION,
THENI DISTRICT.

3.THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.

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

+1 CC to M/s.B.JEYAKUMAR, Advocate (SR-1024[I] dated 24/01/2024)

ORDER

IN

Crl.M.P.(MD) No.18191 of 2023

in

Crl.A(MD) No.1125 of 2023

Date :24/01/2024

RK (24/01/2024) 5P / 6C

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