



WEB COPY



*Crl.M.P.No.17836 of 2024  
in Crl.R.C.No.2303 of 2024*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

**Crl.M.P.No.17836 of 2024**

**in**

**Crl.R.C.No.2303 of 2024**

Viji@Vijayan

...Petitioner /Accused A2

Vs.

State rep by  
The Inspector of Police,  
Poolampatti P.S., Salem District.  
Cr.No.20 of 2016

... Respondent / Complainant

**Prayer:** Criminal Miscellaneous Petition has been filed under Section 438 r/w 442 of the Bharatiya Nagarik Suraksha Sanhita praying to suspend the sentence imposed on the petitioners passed in S.C.No.358 of 2016 vide Judgement dated 28.08.2018 on the file of the learned Assistant Sessions Judge, Sankakiri and confirmed in C.A.No.142 of 2018 on the file of the II Additional District and Sessions Judge, Salem vide Judgement dated 17.04.2024 and enlarge the petitioner on bail pending disposal of criminal revision.



WEB COPY



*Crl.M.P.No.17836 of 2024  
in Crl.R.C.No.2303 of 2024*

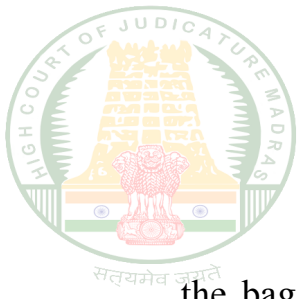
For Petitioner : Mr.A.Abdul Lathif

For Respondent : Mr.S.Udaya Kumar  
Government Advocate (Crl.Side)

### **ORDER**

The Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioners passed in S.C.No.358 of 2016 vide Judgement dated 28.08.2018 on the file of the learned Assistant Sessions Judge, Sankakiri and confirmed in C.A.No.142 of 2018 on the file of the II Additional District and Sessions Judge, Salem vide Judgement dated 17.04.2024 and enlarge the petitioner on bail pending disposal of criminal revision.

2. The case of the prosecution is that the defacto complainant is running a jewellery shop; that he was in the habit of taking all the jewels from the shop every night to his house and bringing them back the next morning; that the accused, four in number, were close friends who conspired to commit robbery of the jewels. Accordingly, on 21.01.2016, they waited for the arrival of the defacto complainant, sprinkled chilly powder on his face, and forcibly took



*Crl.M.P.No.17836 of 2024  
in Crl.R.C.No.2303 of 2024*

WEB COPY

the bag containing 5 sovereigns of jewels, 55 sets of baby studs and silver chains weighing 1,204 Kgs, worth Rs.1,25,000/-.

3. The petitioner/accused in S.C.No.358 of 2016 was convicted for the offences under Sections 392 r/w Section 397 IPC and sentenced to undergo 7 years of rigorous imprisonment. Aggrieved by the same, the petitioner/accused preferred appeal in Crl.A.No.142 of 2018 before the learned II Additional District Judge and Sessions Judge, Salem. The learned Judge, by judgement dated 17.04.2024, partly allowed the same, confirming the conviction and sentence passed by the trial Court, against which, the petitioner/accused filed Crl.R.C.No.2303 of 2024 before this Court along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. The learned counsel for the petitioner would submit that the petitioner was not identified by the witness; that the prosecution case is false and that there are several arguable points in the above revision, which requires consideration; that the petitioner was in custody during the period of investigation and trial from 12.02.2016 to 13.04.2016 and from 18.07.2016 till 28.08.2018 and is now in custody pursuant to the judgement of the Appellate



*Crl.M.P.No.17836 of 2024  
in Crl.R.C.No.2303 of 2024*

WEB COPY

Court from 20.06.2024; and that he has spent three years in jail out of the total sentence of 7 years and prayed for granting suspension of sentence to the petitioner.

5. Heard the learned counsel for the learned Government Advocate (Crl.Side) for the respondent and perused the records.

6. On perusal of the judgements of the Courts below and the grounds of revision, this Court finds that the learned counsel for the petitioner has raised substantial points in the above revision, which has to be considered. The revision is not likely to be taken up in the near further. Admittedly, the petitioner was in custody for a total period of 2 years and 3 months during the investigation and trial and he is in custody for a period of 5 months from 18.07.2024. He is in jail for nearly 3 years out of the total sentence of 7 years of imprisonment. Hence, this Court is inclined to grant suspension of sentence to the petitioner on the following conditions, till the disposal of the above Criminal Revision :



WEB COPY



*Crl.M.P.No.17836 of 2024  
in Crl.R.C.No.2303 of 2024*

(i) The sentence of imprisonment alone, imposed on the petitioner/accused shall be suspended, on him executing a bond for a sum of Rs.10,000/- with two sureties, each for a likesum to the satisfaction of the trial court.

(ii) The petitioner and 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 and mobile numbers to ensure their identity;

(iii) The petitioner shall appear before the Trial Court on the first working day of a month at 10.30 a.m., until the disposal of the revision and if he is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of his absence as directed by the Trial Court.



WEB COPY



*Crl.M.P.No.17836 of 2024*  
*in Crl.R.C.No.2303 of 2024*

**SUNDER MOHAN, J.**

Anu

7. Accordingly, the Criminal Miscellaneous Petition is ordered.

28.01.2025  
(2/2)

Anu

**Issue order copy by 29.01.2025**  
**Upload the order copy forthwith.**

To

- 1.The Assistant Sessions Judge, Sankakiri
- 2.The II Additional District and Sessions Judge, Salem
- 3.The Superintendent,  
Central Prison, Salem.
- 3.The Public Prosecutor,  
High Court, Madras.

Crl.M.P.No.17836 of 2024  
in  
Crl.R.C.No.2303 of 2024