

In The Court Of The Principal District And Sessions Judge, Pudukkottai
Present : Thiru.K.Poorana Jeya Anand, M.A., M.L.,
Principal District And Sessions Judge, Pudukkottai
Dated this the 13th day of March' 2024

M.P. No.01/2024
Crime No.224/2018
CA.No. 18/2024

Raju,
aged 37,
s/o.Gunasekaran.

... Petitioner/Accused

//Versus//

The State,
Rep. by the Inspector of Police,
Karambakudi Police Station, Pudukkottai.

... Respondent/Complainant

Cr.No.224/2018

This petition coming on this day for hearing before me, in the presence of Thiru.M Gulam Nabi Azad, Advocate for the petitioner and of Thiru. B.Venkatesan, Public Prosecutor for the respondent/complainant after hearing both side arguments and upon perusing the records and materials, this Court passed the following:

ORDER

- 1) Both sides heard. Records perused.
- 2) The learned counsel for the petitioner submitted that in C.C No.108/2023 the learned District Munsif cum Judicial Magistrate, Karambakudi has convicted the petitioner u/s 304(A) of IPC to undergo one year simple imprisonment and directed to pay a fine of Rs.1000/- in default to undergo simple imprisonment for one month and the petitioner is strongly believed that in appeal he would succeed and it would take some time for hearing the appeal and he prays to suspended the sentence till the disposal of the appeal.
- 3) On the other hand, the learned Prosecutor has not raised any objection.
- 4)The decision reported in Hon'ble Supreme Court of India, Miscellaneous application No.1849/2021 dated 11.07.2023- Satender Kumar Antil vs CBI and another, it was held as follows,,

E) Criminal Procedure Code, 1973- Sections 389 and 436A- Suspension of sentence and release on bail- “presumption of innocence” and “bail is rule and jail is exception” may not be available to appellant who has suffered conviction- Mere pendency of an appeal per se would not be a factor- Though delay in taking up main appeal would certainly be a factor and benefit available under section 436A would also be considered, Courts will have to see relevant factors including conviction rendered by trial Court- Delay in taking up main appeal or revision coupled with benefit conferred under section 436A of Code among other factors ought to be considered for a favourable release on bail- in a case where an appeal is pending for a long time , to bring it under 436A period of incarceration in all forms will have to be reckoned, and so also for revision. (Pages42,43,44,46)

5) In view of the decisions cited supra Considering both side submissions and considering the request made by the petitioner, this court is inclined to suspend the sentence of imprisonment imposed on the C.C No.108/2023 till the disposal of the appeal.

6) The petitioner/appellant/accused is directed to execute a bond for Rs.10,000/- with two sureties for the like sum each to the satisfaction of the District Munsif cum Judicial Magistrate, Karambakudi and the petitioner is directed to appear before this court on 06.04.2024 and subsequent hearings.

7) In the result, the suspension of sentence petition is allowed.

Delivered by me in the open court on this, the 13th day of March' 2024.

Principal Sessions Judge,
Pudukkottai.

Copy to

- 1) District Munsif cum Judicial Magistrate, Karambakudi.
- 2) Thiru.M Gulam Nabi Azad, Advocate for petitioner.