

In the Court of Vacation Sessions Judge, Kanniyakumari District at Nagercoil.

Present : Thiru B. Karthikeyan, B.L.  
Vacation Sessions Judge/Principal Sessions Judge,  
Kanniyakumari at Nagercoil.

Wednesday, the 8<sup>th</sup> day of May, 2024.

C.C. No. 35/2009 of the Judicial Magistrate Court, Eraniel.

Crl.M.P. No. 111/2024 in C.A.No. 1/2024

(CNR.No.TNKK0V-000102-2024)

D. Aseir Nesa Rajan, S/o Durai Mani

... Petitioner

/Vs./

The State of Tamil Nadu,  
rep. by the Inspector of Police,  
Colachel Police Station,  
through the Public Prosecutor,  
Nagercoil

... Respondent

This petition is filed by Advocate Thiru A. Raveendran, u/s 389 of Cr.P.C. praying to grant bail and to suspend the sentence imposed on the petitioners in C.C No. 35/2009 of the Court of Judicial Magistrate, Eraniel by Judgment dated 22.04.2024 till the disposal of appeal.

ORDER

Heard both sides. Perused the petition.

The petitioner seeks bail and suspension of sentence pending disposal of appeal.

It appears that the petitioner has been convicted by the learned Judicial

Magistrate, Eraniel in C.C No. 35/2009 by Judgment dated 22.04.2024 and the petitioner was convicted and sentenced to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for one week for the offence u/s 294(b) of IPC and he was convicted and sentenced to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for one week for the offence u/s 427 of IPC and he was convicted and sentenced to undergo simple imprisonment for 36 months and to pay a fine of Rs.10,000/- in default to undergo simple imprisonment for six months for the offence u/s 326 of IPC and he was convicted and sentenced to undergo simple imprisonment for 24 months and to pay a fine of Rs.2,000/- in default to undergo simple imprisonment for three months for the offence u/s 324 of IPC and also he was convicted and sentenced to undergo simple imprisonment for 12 months and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for one month for the offence u/s 323 of IPC and the sentences are to run consecutively.

Aggrieved by the Judgment and conviction, the accused has filed this appeal and this petition to suspend the sentence and for bail along with criminal appeal.

Fine amount paid by the petitioner.

The learned counsel for the petitioner submitted that the petitioner was on bail during trial and he has every chance to win the appeal and now the petitioner is in jail from 22.04.2024 and prayed to suspend the sentence and to grant bail to the petitioner.

The learned Public Prosecutor opposed the application to suspend the sentence and to enlarge the petitioner on bail.

On considering the submissions made by the learned counsel for the petitioner that the petitioner has been in judicial custody from 22.04.2024 and he has every chance to win the appeal and the memorandum of appeal is perused by this court and valid points are raised by the petitioner/accused and that have to be decided after hearing of both sides and also considering the above said facts, this court is inclined to suspend the substantive sentence of imprisonment alone and the petitioner is ordered to be enlarged on bail.

In the result, the execution of substantive sentence of imprisonment imposed on the petitioner by the lower court alone is hereby suspended till the disposal of the appeal and the petitioner is ordered to be enlarged on bail on his executing a bond for a sum of Rs.10,000/- each with two sureties for a likesum to the satisfaction of the Judicial Magistrate, Eraniel within two weeks from the date of this order and accordingly this petition is allowed.

On the failure of the petitioner to comply with the above said condition, the suspension granted to him shall stand automatically cancelled.

Pronounced by me in open court this the 8th day of May, 2024.

Vacation Sessions Judge.

To  
The Judicial Magistrate, Eraniel. (through e-Mode)  
The Superintendent, Central Jail, Palayamkottai (through e-mode)

