

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.

Thursday, the 23<sup>rd</sup> day of May, 2024.

C.C. No.70/2018 of the Court of Judicial Magistrate, Fast Track Court, Nagercoil.

Crl.M.P. No.245/2024 in C.A.No.5/2024

(CNR.No.TNKK0V-000321-2024)

Dileep S/o. John

... Petitioner

/Vs./

State of Tamil Nadu,

Through Sub Inspector of Police,

Eraniel police station,

Rep. by the Public Prosecutor, Nagercoil.

... Respondent

This petition is filed by Advocate Thiru A.K.E. Appaji, u/s 389 (1) Cr.P.C. praying to suspend the sentence imposed on the petitioner in CC. No.70/2018 by the Judicial Magistrate, Fast Track Court, Eraniel by Judgment dated 22.04.2024 till the disposal of appeal.

### ORDER

Heard both sides. Perused the petition.

The petitioner seeks suspension of sentence pending disposal of appeal.

It appears that the petitioner has been convicted by the learned Judicial Magistrate, Fast Track Court, Eraniel in C.C No.70/2018 by Judgment dated 22.04.2024 and the petitioner was convicted and sentenced him to pay a fine of

Rs.1,000/- in default, to undergo simple imprisonment for two weeks for the offence u/s 279 IPC and to pay a fine of Rs.500/- (2 counts) in default, to undergo simple imprisonment for two weeks for the offence u/s 337 IPC and to undergo simple imprisonment for 24 months and to pay a fine of Rs.10,000/- in default, to undergo simple imprisonment for three months for the offence u/s 304(A) of IPC.

Fine amount paid by the petitioner.

Aggrieved by the Judgment and conviction, the petitioner/accused has filed this appeal and this petition to suspend the sentence.

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 the trial court has suspended the sentence till 21.05.2024 and prayed to suspend the sentence.

The learned Public Prosecutor opposed the application and prays for dismissal of this application.

Considering the fact that the arguable points are available to the petitioner to challenge the conviction, this court is inclined to suspend the substantive sentence alone and the petitioner is ordered to be enlarged on bail.

In the result, the 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 Rs.10,000/- each with two sureties for a likesum to the satisfaction of the Judicial Magistrate, Fast Track Court, 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.

Appeal stands posted on 19.06.2024.

Pronounced by me in open court this the 23<sup>rd</sup> day of May, 2024.

Vacation Sessions Judge.

To  
The Judicial Magistrate, Fast Track Court, Eraniel.(through e-mode)