



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

Tuesday, the Thirty First day of January Two Thousand and  
Twenty Three

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.ILANGOVAN

CRL.M.P.(MD)No.708 of 2023  
in  
CRL.RC.(MD)No.50 of 2023

SORNAPANDI

... PETITIONER/REVISION PETITIONER/  
APPELLANT/ACCUSED NO.1

Vs

THE STATE REP.BY,  
THE INSPECTOR OF POLICE  
PERUMALPURAM POLICE STATION,  
TIRUNELVELI DISTRICT  
(CRIME NO.960 OF 2005)

... RESPONDENT/REVISION RESPONDENT/  
RESPONDENT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the execution of sentence by granting bail in Crl.A.No.58 of 2017 dated 09.12.2022 on the file of the learned III Additional Sessions Court, Tirunelveli District in S.C.No.317 of 2008 dated 24.08.2017 on the file of the learned Principal Assistant Sessions Court, Tirunelveli District till the disposal of the Criminal Revision.

Prayer in CRL RC(MD). 50/ 2023 :

To call for the records from the lower court and duly set aside the judgment passed by the learned III Additional Sessions Court, Tirunelveli District in Crl.A.No.58 of 2017 dated 09.12.2022 in S.C.No.317 of 2008 dated 24.08.2017 on the file of the learned Principal Assistant Sessions Court, Tirunelveli District and duly set aside the same.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.PRABHU.K, Advocate for the petitioner and of M/S.M.SAKTHI KUMAR, Government Advocate(Crl.side) on behalf of the Respondent the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the execution of sentence by granting bail in Crl.A No.58 of 2017, dated 09/12/2022 on the file of the III Additional Sessions Judge, Tirunelveli District, in SC No.317 of 2008, dated 24/08/2017 on the



file of the Principal Assistant Sessions Court, Tirunelveli till the disposal of the criminal revision.

**2.The case of the prosecution in brief:-**

On 23/09/2005 at about 12.00 noon A1 and A2 along with A3 by showing the knife robbed the informant namely Bhagavathi of gold ornaments. In that process, they also caused assault. On the basis of the above said occurrence, the case was registered for the offences under sections 448, 394, 397 r/w 34 IPC. After completing the formalities of investigation, final report was filed and it was taken cognizance in SC No.317 of 2008.

3.During trial process on the side of the prosecution 13 witness were examined and 14 documents were marked, apart from 5 material objects were marked.

4.At the conclusion of the trial process, the trial court convicted the accused persons and sentenced to undergo simple imprisonment for a period of one month for the offence under section and to undergo five years rigorous imprisonment and also imposed a fine of Rs.1,000/- with default clause for the offence under section 394 IPC . Against which appeal has been preferred before the III Additional Sessions Judge, Tirunelveli District, in Crl.A No.58 of 2017 and it was modified the conviction from 5 years to 3 years for the offence under section 394 IPC. Against which this revision has been filed. Pending revision this miscellaneous petition has been filed seeking suspension of sentence.

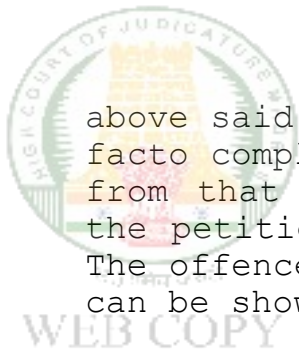
5.The learned counsel appearing for the petitioner would submit that even as per the allegation made in the FIR, unidentified persons committed the robbery and on 08/01/2017 itself the accused were apprehended and they were kept in the police station to show the witnesses and the fingerprint expert opinion has not been produced. PW8 turned hostile.

6.The learned Additional Public Prosecutor would submit that the delay occurred due to the inaction on the part of the de-facto complainant.

7.Heard both sides.

8.It is a case of robbery. While committing the robbery, the accused persons alleged to have caused injury to the de-facto complainant.

9.Reading of the complaint as well as the evidence of PW1 shows the manner in which the above said occurrence said to have been committed. By showing the knife and pressing the same in the neck region, they committed the robbery of gold chain. Apart from that, they have also robbed the gold jewels kept in the bureau. In the



above said process, assault was made by one of the accused in fact complainant and other inmates were tied with ropes and escaped from that place. The manner of the occurrence itself, disentitles the petitioner from claiming the benefit of suspension of sentence. The offence of such nature cannot be taken lightly and no indulgence can be shown to the petitioner.

10. In the result, the criminal miscellaneous petition is **dismissed**.

sd/-  
31/01/2023

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/02/2023

Sub-Assistant Registrar (C.S.)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

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TO

1. THE III ADDITIONAL SESSIONS JUDGE, TIRUNELVELI DISTRICT
2. PRINCIPAL ASSISTANT SESSIONS JUDGE, TIRUNELVELI DISTRICT
3. THE INSPECTOR OF POLICE  
PERUMALPURAM POLICE STATION,  
TIRUNELVELI DISTRICT
4. THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE SUPERINTENDENT,  
CENTRAL PRISON,  
PALAYAMKOTTAI.

+1 CC to M/s.K.PRABHU, Advocate ( SR-1496[I] dated 31/01/2023 )

ORDER  
IN  
CRL.M.P. (MD) No.708 of 2023  
in  
CRL.RC. (MD) No.50 of 2023  
Date : 31/01/2023

RK/MMS/SAR-1 (09/02/2023) 3P/7C