

BAIL SLIP

That the Appellant herein/Sole Accused viz., Baskar, was directed to be released on Bail as per the order of this Court dated 10.04.2007 and made in Criminal Miscellaneous Petition No.1 of 2007 in CrI.A.No.341 of 2007 and made herein.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2015

CORAM:

THE HON'BLE MR.JUSTICE P.DEVADASS

CrI.A. No.341 of 2007
and
M.P.No.1 of 2015

Baskar

... Appellant/Sole Accused

Vs.

State rep. by
Inspector of Police,
P.E.W.,
Chidambaram,
(Cr.No.524/2002).

... Respondent/Complainant

Petition filed under Section 374 of the Code of Criminal Procedure, to revise and set aside the judgment dated 03.04.2007 passed by the Learned Additional District and Sessions Judge (Fast Track Court - III), Vridhachalam in S.C.No.285 of 2006.

For Petitioner : Mr. S.Shankar.

For Respondent : P.Govindarajan,
Additional Public Prosecutor

ORDER

Appellant is the sole accused in this case.

2. Appellant was prosecuted for a charge under Section 4(1)(aaa) r/w. 4(1-a)(ii) of Tamilnadu Prohibition Act.

3. Appellant was accused of having found in possession of 60 litres of illicit arrack mixed with poisonous substance.

4. Prosecution examined Pws.1 to 7 and marked Ex.P1 to Ex.P5 and exhibited M.O.1.

5. The trial court examined the appellant under section 313 Cr.P.C on the incriminating aspects in the prosecution evidence. Appellant denied the prosecution case. He did not examine any defence witness.

6. The trial court appreciating the evidence, found him guilty under section 4(1)(aaa) TNP Act and sentenced him to 6 months R.I and fined Rs.500/-, i/d 2 months S.I. and also found him guilty under section 4(1)(a)(ii) TNP Act and sentenced him to 6 months R.I and fined Rs.1000/-, i/d 2 months S.I. Both the sentences were directed to run concurrently. Fine amounts paid.

7. Learned counsel for the appellant confined his arguments only with regard to the quantum of sentence. He would submit that the appellant is the sole bread winner of the family. He did not suffer any prior conviction. He is in jail for 25 days.

8. The learned Additional Public Prosecutor submitted that considering the nature of the offences alleged, the trial court punished him accordingly.

9. I have considered the rival submissions.

10. While imposing sentence, the plight of the appellant and the consequence of he having been sent to jail on his family also to be taken note of.

11. Now, in this case, the appellant was found in possession of 120 litres of illicit arrack in two mud pots. He is the sole bread winner of the family. He did not suffer any prior conviction. In this circumstances, 6 months R.I. to him appears to be excessive. In the circumstances, the rigor of sentence is required to be diluted.

12. In the result, the appeal is allowed in part . Conviction under sections 4(1)(aaa) and 4(1)(a)(ii) of TNP Act are confirmed. And 6 months R.I. for each count are set aside. Fine amounts maintained. Instead, he is sentenced to 25 days R.I for each count. He is entitled to relief under section 428 Cr.P.C..

14. As the modified sentence has already been undergone by the appellant, Registry is directed to recall the NBW from the respondent police and the M.P.No.1 of 2015 is ordered accordingly.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Additional Sessions Judge,
(formerly FTC No.III),
Virudachalam.
2. -do- Through The Principal Sessions Judge,
(formerly FTC No.III),
Virudachalam.
3. The Judicial Magistrate II,
Cuddalore.
4. -do- Through The Chief Judicial Magistrate,
Cuddalore.
5. The Superintendent,
Central Prison,
Cuddalore.
6. The Inspector of Police,
P.E.W., (NBW is recalled)
Chithambaram.
Cuddalore district.
7. The District Collector,
Cuddalore
8. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Shankar, Advocate, S.R.No.20342

सत्यमेव जयते

CRL. A. NO. 341 of 2007

UG(CO)
CA(24/06/2015)

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