

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Eighteenth day of April Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice M. VENUGOPAL

CRIMINAL MISCELLANEOUS PETITION No.4721 of 2017

IN CRL A.189/2017

VENKATESAN

[PETITIONER IN BOTH PETITIONS]

Vs

THE INSPECTOR OF POLICE,
PROHIBITION ENFORCEMENT WING,
FLOWER BAZAAR CIRCLE,
SEVENWELLS, CHENNAI.

[RESPONDENT IN BOTH PETITIONS]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to suspend the sentence imposed against the Appellant in S.C.No.159 of 2016 dated 20.02.2017 passed by learned VI Additional Sessions Judge, Chennai, pending disposal of the above said Appeal

Order : These petitions coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.T.SARAVANAN, Advocate [IN BOTH PETITIONS] for the petitioner and of MR.K.MATHAN, Govt. Advocate (Crl. Side) on behalf of the Respondents the court made the following order:-

Heard both sides.

2. The Petitioner / Appellant / Accused has preferred the present Criminal Miscellaneous Petition in Criminal Appeal before this Court seeking 'Suspension of Sentence' imposed upon him in S.C.No.159 of 2016 dated 20.02.2017 passed by the Learned VI Additional Sessions Judge, Chennai.

3. It comes to be known that the Petitioner / Appellant / Accused was found guilty in respect of an offence under Section 4(1) (a) of the Tamil Nadu Prohibition Act, 1937 by the trial Court. However, he was not found guilty in respect of an offence under Section 4(1-A) of the Tamil Nadu Prohibition Act, 1937.

4. It is to be noted that Petitioner / Appellant / Accused in respect of an offence under Section 4(1)(a) of Tamil Nadu Prohibition Act was imposed with a Simple Imprisonment for a period of Three Months, also he was directed to pay a fine of Rs.1,000/- and in default of payment of fine, he was directed to under Simple Imprisonment for a period of three weeks. It is brought to the notice of this Court on behalf of the Petitioner / Appellant /

Accused that a fine of Rs.1,000/- imposed by the trial Court upon the Petitioner / Appellant / Accused was paid by the Petitioner before the trial Court to the credit of S.C.No.159 of 2016.

5. As an aggrieved person, the Petitioner / Appellant / Accused has focused the instant Criminal Appeal. Admittedly, an 'Appeal' is a continuation of original proceedings of the trial court. In the instant case, the Petitioner / Appellant / Accused has exercised his statutory right of preferring the instant Appeal, as envisaged under the Criminal Procedure Code.

6. It cannot be gainsaid that filing of a Miscellaneous Petition 'Seeking Suspension of Sentence and to Release the Accused on Bail' forms an integral part of the main Appeal.

7. In this connection, this Court has perused the numerous grounds raised by the Petitioner / Appellant / Accused in the present 'Memorandum of Grounds of Appeal' and is of the considered opinion that they require elaborate examination at the time of final hearing of the main Appeal.

8. It is represented on behalf of the Respondent / Prosecution that the Petitioner / Appellant / Accused has no previous case under the Tamil Nadu Prohibition Act, 1937 to his credit.

9. Considering the fact that the Petitioner / Appellant / Accused has focused the instant Appeal before this Court and also this Court taking note of the fact that the present Appeal filed by the Petitioner / Appellant / Accused is a continuation of original proceedings in Law and also this Court taking note of yet another fact that the present Criminal Appeal is not likely to be heard in the near future and also considering the over all facts and circumstances of the case in an encircling manner, at this stage, is inclined to suspend the substantial sentence of imprisonment alone and directs the release of the Petitioner / Appellant on his executing a bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only) with two sureties each for a likesum to the satisfaction of the Learned VI Additional Sessions Judge, Chennai and on further condition that he shall appear before the said Court on the 1st Working day of every English calendar month at 11.00 a.m. without fail until further orders.

Accordingly, this Miscellaneous Petition is ordered.

-sd/-

18/04/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE VI ADDITIONAL SESSIONS JUDGE,
CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
PROHIBITION ENFORCEMENT WING,
FLOWER BAZAAR CIRCLE, SEVENWELLS,
CHENNAI.

+1 C.C. to M/S.T.SARAVANAN Advocate on payment of necessary
charges SR.NO.7040

Order

in
CRL MP.4721/2017

in
CRL A.189/2017

Date :18/04/2017

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PTI-19/04/2017